

Seattle to pay attorneys \$750,000, wipe arrest records in graffiti case

Sep. 11, 2024



This photo, included in the original complaint against the Seattle Police Department, shows the words “peaceful protest” written in charcoal on concrete barricades outside of SPD’s East Precinct on Jan. 1, 2021. The message was written by Derek Tucson, who was subsequently arrested with other protesters by SPD officers for violating the city’s anti-graffiti ordinance. (U.S. District Court documents)

By [Mike Carter](#)

Seattle Times staff reporter

A federal judge has ordered the Seattle Police Department to wipe the graffiti-related arrests of four protesters from databases and the city to pay attorneys more than \$750,000.

U.S. District Judge Marsha Pechman made the series of orders beginning Aug. 19, after a jury awarded the protesters \$680,000 and found Seattle police violated their civil rights with “malice, oppression and reckless disregard” by arresting and booking them into jail during the COVID-19 pandemic.

Pechman also denied motions from the city's attorneys seeking to overturn the jury's verdict or grant the city a new trial.

Under the judge's orders, the city will pay attorneys Braden Pence, Nathaniel Flack and Neil Fox a total of \$746,937.50 in attorneys' fees, and an additional \$4,433.67 in costs, for a total of \$751,371.17.

The attorneys had asked for \$784,487, according to court pleadings.

A [verdict reached in June by a 10-member jury](#) found Seattle police officers liable for punitive damages on claims that the arrests and jail bookings were unconstitutional, retaliatory and based on the anti-police content of the graffiti, which was protected by the First Amendment. The verdict came at the end of a six-day trial.

In January 2021, Seattle officers arrested four anti-police protesters — Derek Tucson, Robin Snyder, Monsieree de Castro and Erik Moya-Delgado — for writing statements including “[Expletive] the Police” and “peaceful protests” in chalk and charcoal on walls and portable concrete barriers outside the department's East Precinct on Capitol Hill.

According to court pleadings, the protesters were booked into the King County Jail for violating Seattle's graffiti law despite a city and county ban on booking most misdemeanor offenders because of the COVID pandemic. The officers invoked a “protester exception” to the booking ban that had been discussed by police and high-ranking city officials, the court documents say.

The protesters claimed the very existence of that exception showed the intent by the city to violate First Amendment free speech and peaceful assembly protections, according to the lawsuit and court pleadings. The four spent the night in jail but were never prosecuted.

The officers involved were identified in court pleadings as Alexander Patton, Dylan Nelson, Ryan Kannard and Michele Letizia.

At trial, it was shown that nobody in the Police Department would take responsibility for the decision to use the exception and book the protesters.

Each of the four protesters was awarded \$20,000 in compensatory damages from the city, with the remainder coming in the form of punitive damages levied in various amounts — all exceeding \$60,000 — to be paid by the officers individually.

[The protesters sued in January 2023](#), arguing the graffiti law was overly broad under the First Amendment and could, in the wrong hands, mean that children drawing on the sidewalk during a parade could theoretically be arrested. They also argued the law was overly vague under the 14th Amendment guarantees of equal protection.

Judge Pechman agreed, initially tossing the entire part of the law regulating property damage, including graffiti. [She later clarified her injunction to only apply to the graffiti section.](#)

Pechman wrote at the time that the city's statute could be used for censorship, noting that "there is allegedly a policy not to arrest children drawing rainbows on the sidewalk," but the statute would allow for that or the arrest of "those who might scribe something that irks an individual officer."

The Seattle City Attorney's Office appealed that ruling to the 9th Circuit Court last year, calling the lower court's hypothetical scenarios "far-fetched," and the appeals court reinstated the law.

The Attorney's Office declined to comment.

After the verdict, the protesters' lawyers said they are asking Pechman to reinstate the injunction.

The jury in the protesters' case heard evidence that the officers targeted the plaintiffs and that at least one of them was known to the officers from earlier protests. Evidence at the trial included photos of police standing by when other officers and citizens wrote pro-police slogans on public sidewalks.

The incident occurred in the wake of large Black Lives Matter rallies and protests after the May 2020 video-captured murder of George Floyd by Minneapolis police, which included the three-week takeover of portions of Capitol Hill by protesters and the decision by police officials to abandon the East Precinct during the height of the unrest.

Police returned to the precinct in late summer 2021.

In addition to revealing the questionable actions by the officers who arrested the four protesters, the investigation by the plaintiffs' attorneys sparked additional controversy when their [body-camera footage revealed that officers had hung a Trump flag and kept a mock tombstone](#) of a 19-year-old man killed by police in 2017 in a precinct breakroom.

Correction: An earlier version of this story misstated that the Seattle City Attorney's Office did not respond to an email seeking comment. An email asking for comment was never sent. The Attorney's Office declined to comment.