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Legal Aid, Covington Secure \$567,500 Settlement from City in Case Challenging NYPD Practice of Using Banned Chokeholds & Misusing Tasers

(NEW YORK, NY) – **The Legal Aid Society and Covington & Burling LLP** announced a \$567,500 settlement with the City in a case brought on behalf of Plaintiff Tomás Medina challenging the New York City Police Department (NYPD)’s practice of using banned chokeholds and misusing tasers. Mr. Medina was [placed in an illegal chokehold and tased thirteen times](#) by NYPD Detective Fabio Nunez over a suspected noise violation. Nunez had been allowed to continue policing despite a long record of similar misconduct, but the NYPD recently confirmed that he is being [forced to retire](#) after he pleaded guilty to an NYPD disciplinary charge of using a banned chokehold.

The parties reached this agreement after the City attempted to get the case dismissed but Mr. Medina prevailed in court. In a decision issued late last year, Judge Alison J. Nathan ruled that the City and top NYPD officials could be held liable for Nunez’s misconduct, explaining that “Medina has raised a plausible inference that the NYPD has maintained a custom of tacitly endorsing or tolerating the improper or unconstitutional use of chokeholds and Tasers.”

"Being attacked by the NYPD was one of the scariest things to ever happen to me. I could have died. What they did to me, and what they do to so many other people is not okay, but I take some comfort in knowing that Detective Nunez is no longer a police officer and that both he and the City have to pay for what they did to me," said **Tomás Medina**.

"While this settlement will never completely right the injustice that Tomás Medina suffered or dismantle the NYPD's culture of impunity for excessive force, it does provide some closure and sends a message to the NYPD that violence against civilians will be met with consequences," said **Molly Griffard, Cop Accountability Project Fellow at The Legal Aid Society**. "So long as the NYPD brutalizes our clients, we will continue to seek accountability and an end to NYPD violence."

"Tomás Medina's determination in seeking NYPD accountability over the course of two and a half years led to today's outcome" said **Ishita Kala, Associate at Covington & Burling LLP**. "No one should be subject to the brutal assault and indignities that Mr. Medina experienced at the hands of the NYPD. So, while this settlement and Detective Nunez's forced retirement provide Mr. Medina with a measure of comfort, only substantial changes to NYPD's policies and procedures can dismantle the systemic practice of deploying excessive force against civilians."

Background

Over 25 years ago, in the wake of public outcry over multiple civilian deaths resulting from chokeholds by police officers across the country, the NYPD instituted a formal policy banning chokeholds. This policy purports to limit chokeholds to situations where deadly force is necessary and no other less lethal force can be used. Nevertheless, NYPD police officers, in an egregious violation of this policy, still regularly misuse this dangerous maneuver to neutralize civilians. Indeed, between January 2015 and June 2018, the City settled at least 30 lawsuits involving the use of chokeholds by the NYPD. During that same time period, the New York City Civilian Complaint Review Board ("CCRB") received at least 582 allegations of NYPD officers using chokeholds against civilians.

Equally disturbing, NYPD officers often wrongly deploy Tasers in situations where civilians have shown no active aggression. The NYPD also overuses Tasers once they are deployed, with multiple or prolonged shocks resulting in needless pain and injury to civilians. Between January

2015 and June 2018, the City settled at least 14 lawsuits involving the use of Tasers by NYPD officers.

The NYPD's grossly inadequate use-of-force training and supervision fail to impress upon officers the limited circumstances and manner in which chokeholds and Tasers may be used on civilians. When incidents of chokehold or Taser misuse arise, the NYPD conducts cursory investigations, which almost invariably result in a failure to discipline offending officers. This practice effectively green lights officers' continuing abuse of civilians with chokeholds and Tasers.

The inevitable result of these institutional failures is NYPD police officers' wide-spread use of these dangerous techniques without justification. Mr. Medina's case is but one example of hundreds of unconstitutional chokehold and Taser misuse incidents alleged against the NYPD in the last few years.

NYPD Detective Fabio Nunez has been the subject of at least 37 allegations of misconduct reported to the CCRB, arising out of 17 separate complaints. He has also been the subject of at least five separate settlement agreements, which include multiple incidents of alleged excessive force. Instead of punishing Defendant Nunez for this pattern of abusive conduct, the NYPD promoted him to a Neighborhood Coordination Officer.

On July 14, 2018, Detective Nunez struck again. He was caught on police body cameras and surveillance footage as he deliberately attacked Mr. Medina, while Mr. Medina's back was turned. Nunez applied a banned chokehold and shocked Mr. Medina thirteen times with a Taser without the least provocation. Surveillance footage of the attack can be accessed [here](#), and the NYPD body-worn camera footage can be accessed [here](#).

Detective Nunez's purported justification for his actions was that Mr. Medina and his friends were playing loud music. However, the officer was aware that Mr. Medina was not controlling the music and that he did not own the speaker playing the music.

Moreover, as soon as Detective Nunez arrived at the scene, Mr. Medina and his friends turned the music off immediately and began to pack up. According to the NYPD's own rules governing noise violations, that should have ended the encounter, but it did not.

The NYPD's internal messaging to officers in response to media coverage of Detective Nunez's assault on Mr. Medina was delivered by the highest-ranking uniformed member of the NYPD, Defendant Terrance Monahan. Monahan defended Nunez by stating that he "used the necessary force to take [Mr. Medina] into custody." This response illustrates the NYPD's explicit approval of its officers' unconstitutional chokehold and Taser use against civilians.

Despite Detective Nunez's actions, Mr. Medina was charged with felony assault on an officer, resisting arrest, and other charges. After over a year of prosecution, all the charges against Mr. Medina were dismissed and sealed. Mr. Medina was represented in his criminal case by Gurmeet Singh, Staff Attorney with Legal Aid's Manhattan Trial Office.

Mr. Medina filed his federal [civil rights lawsuit](#) in the Southern District of New York in October 2019. After receiving confirmation that Detective Nunez was forced to retire, Mr. Medina settled his claim for a total of \$567,500, comprising \$300,000 in damages and \$267,500 in attorneys' fees and costs. New York City taxpayers will foot the bill for \$562,500 of the settlement with the remaining \$5,000 to come directly from Detective Fabio Nunez. Mr. Medina was represented in his civil rights action by Corey Stoughton, Alexander Lesman, and Molly Griffard of Legal Aid and by David Kornblau, Ishita Kala, Micha Nandaraj Gallo, Flannery Gallagher, and Jessica Gerson of Covington & Burling LLP.

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