

**Subject:** Re: [npap] What is each incarcerated day worth?

**From:** Marianne Dugan <mdugan@mdugan.com>

**Date:** Wed, 01 Jun 2011 10:42:05 -0700

**To:** jsolson@scofflaw.com

**CC:** npap@nationallawyersguild.org

Here are some jury verdicts and settlements for wrongful and excess incarceration (with amounts adjusted for inflation to December 2009). They are focused on Oregon but include some outside of Oregon.

[for inflation see <http://data.bls.gov/PDQ/outside.jsp?survey=cu>]

MY CASES:

Haga v. City of Florence, et al., D. Or. No. 02-CV-6012-TC -- 2002 -- my client was wrongfully incarcerated for four days without arraignment. We settled for \$5000 (\$1250 per day; about \$1500 adj. for inflation)

Griffith v. Deschutes County -- 2002 -- my client was wrongfully incarcerated for three days. We settled for \$4500 (\$1800 per day; \$2124 adj. for inflation)

Wilcox v. Reid -- 2004 -- legal malpractice (double jeopardy not argued) -- settled for \$50,000 -- 1310 days wrongfully incarcerated

Dahl v. Reid -- 2004 -- 160 days of wrongful incarceration (legal malpractice, extensive criminal history) - \$15,000 (approx. \$95 per day, \$107 per day adjusted for inflation)

Chlanda v. Lane County -- 2003 -- settled for \$5500 - wrongful incarceration for less than a day -- mistaken identity (\$6380 adj. for inflation)

Margolin v. EPD, Woodsum, Lane Co. D.A., D. Or. No. 07-6003-HO -- 2007 -- settled for \$13,500 for a woman who was unlawfully detained in her home for a couple of hours. (About \$14,000 adj. for inflation)

Knight v. Sutherlin and Douglas County -- Settled 2010 for \$22,500 for a man who was mistakenly arrested and extradited because his name was similar to an alias of a suspect; held seven days and transported from Washington state to Oregon

Piper and Dickenson v. Magana and City of Eugene, D. Or. 04-6100-HO - settlement 2004 - \$11,250 to each plaintiff for invasion of their home and approximately one hour wrongful detention and search (\$12,700 for each plaintiff, adj. for inflation)

Hudson et al. v. City of Salem et al., D. Or. No. 07-226-ST - 2009 - \$163,000 settlement for all claims - removal of baby from home, excessive force (handcuffs), one week? jail

Wheeler v. City of Springfield -- \$5000 settlement 2003 -- after her car was stolen and then recovered she was mistakenly stopped and made to lie on the ground, suspected of stealing her own car

Farrell Tippetts v. Oregon Dept of Corrections and Douglas County - \$6000 settlement 2004 - -- error in calculating prison release date -- held for 34 days longer than he should have been held.

OTHER PEOPLE'S CASES --

Benson v. Oregon, 196 Or App 211, 100 P3d 1097 (2004) - \$106,500.00 - 43 days (\$2476 per day; about \$2800 adjusted for inflation)

Oviatt v. Pierce, 954 F.2d 1470 (9th Cir. 1992) -- verdict of \$65,000 for 114 days of wrongful incarceration without arraignment; no indication plaintiff had been exonerated of charges (\$570 per day; about \$878 adjusted for inflation)

Smiddy v. Varney, 803 F.2d 1469 (9th Cir. 1986) -- verdict of \$250,000 for four days of wrongful incarceration (\$62,500 per day; about \$123,750 adjusted for inflation -- court "reluctantly" remanded for remittitur of damages)

Webb v. Sloan, 330 F.3d 1158 (9th Cir. 2003) -- verdict of \$80,000 for 19 days of wrongful incarceration (\$4211 per day; \$4885 adj. for inflation)

Fee v. Michael, City of Salem, Oregon State Police, Marion Co. No. 89C-10257 - Jury verdict May 21, 1990 - Police had warrant with insufficient particularity, leading them to search the wrong house; broke down door, pointed guns, and searched for 20 minutes - Verdict for \$27,500 per plaintiff, plus attorney fees; \$45,650 adj. for inflation (PER plaintiff)

Hunter v. City of Portland - D. Or. 92-1646 JO - jury verdict July 27, 1993 - Street encounter in North Portland without probable cause; unemployed plf refused to consent to search; police handcuffed, searched his pockets, and put in police car while checking for warrants, then let him go - \$10,000 on state law claims; for defendant on federal claims (\$15,000 adj. for inflation)

Moore and Ross v. City of Eugene, Lane Co. 16-95-10542 and 16-95-10543; jury verdict September 11, 1996 - 16 year olds stopped at gunpoint by police while riding bikes to track practice, accused of bank robbery; one of them handcuffed; detention lasted 14 minutes. \$10,000 for each plaintiff on state law claims; for defendant on federal law (\$13,900 per plaintiff adj. for inflation).

Hammick v. City of Portland, Mult. Co. No. 080709735 -- 9/28/09 - jury verdict for \$175,000 (\$55,000 per plaintiff)- three plaintiffs - encounter with police at a downtown parking garage in which the men were detailed for a period of time. No time in jail.

Robinson v. Multnomah Co, D Or No. 08-CU-821-HU - State of Or & Mult Co paid former detainee \$30,000 to settle illegal detention claims. Mult. Co. Jail failed to bring him to trial within 60 days as required by law, charges were dismissed; he was entitled to immediate release but was confined 90 more days before he was released. Settled 10/29/08 -- \$333 per day

Davage and Monroe v. City of Eugene et al., D. Or. 04-cv-06321-HO -- after malpractice screwed the case up badly, they settled for \$92,000 in 2009 -- tank raid of house; no charges brought; officers pointed firearms at plaintiffs; one officer grabbed female plaintiff while she was in night clothes and threw her to the ground where she hit her head on metal doorsill, another stepped on her neck and back, roughly yanked her arms behind her and tightly bound her hands behind her back with a plastic binder; officer violently yanked her up to her feet by her arm and began to drag her through the door, while officers continued to point guns directly at her; she was detained with a black hood over her head and with wrists tightly bound.

Clay (mentioned at Portland civil rights round table 2007) - client with 110 days too many served - scumbag with lots of imprisonment, v. ODOC - 60 years old, no job - \$14,000 (14,420 adj. for inflation)

At 09:27 AM 6/1/2011, Matthew D. Brinckerhoff wrote:

Apart from assigning a value for (1) the economic losses from client's lost job and apartment, and (2) the emotional pain and suffering she suffered as a result of (i) losing her job and apartment, (ii) being unable to care for her mother, and (iii) being wrongfully incarcerated -- all of which could be fairly significant -- my favorite case attempting to quantify a number per day for loss of liberty alone came up with \$10k per day, see attached.

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From: Henry Brewster [<mailto:hbrewster@brewsterlaw.net>]  
Sent: Wednesday, June 01, 2011 12:14 PM  
To: Matthew D. Brinckerhoff  
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Subject: [npap] What is each incarcerated day worth?

Insurance carrier wants to settle a wrongful detention case. Client spent 111 days in county jail after a drug testing company (on contract with the county) first found a false positive, and then after correcting that found a different false positive and failed to alert client so she could challenge it. Client is no Nobel Prize winner but she lost her job, apartment, and her ailing mother had to go without her care. Suggestions on what a day of incarceration is worth. I figured I would come up with a per diem and then multiply time 111 days. Suggestions?

Henry Brewster

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Marianne Dugan, Attorney at law

"Nothing is more fairly distributed than common sense: no one thinks he needs more of it than he already has." -- René Descartes, born on March 31, 1596

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