

CINCINNATI (WKRC) - An innocent man's car was totaled and the other driver was a Cincinnati police officer.

Medical bills, lost wages, and property damage totaled over \$12,000. If someone hits your car, you expect the insurance to cover your damages. But if a police officer hits you, an Ohio law could leave you with the bill.

Police dash cam video showed a Cincinnati police officer speeding up to respond to a call August 3, 2015. A teen had just dialed 911 to a robbery. As the officer rounded the curve on Virginia Avenue in Northside, his cruiser loses grip on the wet asphalt. The cruiser crashes into a Honda Civic that was legally parked, knocking it into a utility pole, and spinning the cruiser around. The police officer was not injured.

Bobby Burgess was inside the Civic. He was only bruised but his 2007 Civic was totaled. He had purchased the car nine days prior.

The police cruiser had to be hauled away too and the crash came at a steep cost. Normally Bobby's insurance would have come in to play because he was not at fault. According to the police department's own accident report, "Unit 1 [police cruiser] failed to maintain control in a curve" when it crashed into Bobby's Civic.

The city denied the claim.

IN a letter denying Bobby's claim, the Cincinnati Police Department's finance director wrote, "The City of Cincinnati is immune from liability for damages.... while police officers are on a call of duty."

Ohio law does allow the city of Cincinnati, and other municipalities, to claim immunity in crashes where police officers or firefighters or emergency medical service members are "responding to an emergency call" and "there's no willful or wanton misconduct."

After his Civic was totaled, Bobby said he could only afford a 17-year-old Pontiac Sunfire. It's rusting, the paint is peeling, and he doesn't know how long it will continue to run as he pays the price for a crash that wasn't his fault.

City hall is showing no signs of changing its position and reimbursing Bobby for his losses. Perhaps that's because paying for one case could open the city up to a lot of other claims.

Story 1

DAYTON, Ohio (WKRC) - If you cause a crash on the road, you have to pay for damages and injuries, but in Ohio and most other states, police officers are treated much differently.

Local 12's Duane Pohlman is investigating how far an Ohio law goes in granting immunity to police.

It's a law, that some lawyers claim, has gone too far.

Last month, Local 12's Duane Pohlman showed you a case where a Cincinnati Police cruiser, responding to an emergency call, lost control and crashed into a parked car.

The car was totaled and even though the officer was at fault, the city says it's immune from paying for damages.

Up the road, in Dayton, Local 12's Duane Pohlman found an even more startling crash.

An officer there did not turn on his lights and siren, when his cruiser struck and severely injured a woman in a wheelchair.

The city of Dayton claimed it was immune from paying any of her big medical bills and when the case went to court the city won.

Story 2



"I don't remember how i got to the hospital," said Donna Seege.

Donna Seege can't recall the moment in 2011 when a Dayton Police cruiser hit her.

Donna, who suffers from multiple sclerosis, was trying to cross the street in a wheelchair at an intersection.

The cruiser crash tossed Donna in to the street. She was rushed to the hospital and treated for a long list of injuries.

"My daughter was scared," said Donna.

It took three months for donna to begin to heal. She's never completely recovered.

"My legs. It's very hard for me to walk. It's very hard for me to stand. They hurt all the time," said Donna.

Attorney Doug Brannon represented Donna and filed a lawsuit against the officer and the city of Dayton to compensate her for those injuries.

"She suffered over \$250,000 in medical bills from that hit. She sustained permanent injuries for the rest of her life," said Brannon.

The facts of the case, Brannon says, appeared to be on his client's side.

The Dayton officer stated he was going 40 miles per hour, which is the speed limit.

But, in an interview with a detective shortly after the collision, the officer admitted he was not looking ahead of him, but was "looking for criminal activity" to his left "for 4-5 seconds" before striking Donna in her wheelchair.

And, in a deposition, the Dayton police officer admits he was responding to a "non-emergency call."

"Did not have his lights engaged. He was on his way to an accident, the police officer was, where there were already three other officers on the scene... no injuries... there was no emergency," said Brannon.

That's important, because the language of Ohio's law states cities are granted immunity from damage and injury claims when an officer is "responding to an emergency call and the operation of the vehicle did not constitute willful or wanton misconduct."

In the previous case Local 12's Duane Pohlman investigated last month, the Cincinnati Police officer was responding with lights and sirens when he lost control of his cruiser and slammed in to a parked car, totaling it.

"I get stuck with the bill," said the car's owner, Bobby Burgess.

In Dayton, the cruiser had no lights and no siren, and Donna says she had no warning.

"You know, if I thought he was on an emergency, I would appreciate that, but he didn't have one light on. He didn't have one emergency," said Donna.

But, when Donna and her attorney went to court, they lost.

"Our trial judge said that immunity applies," said Brannon.

Brannon disagreed with the ruling and appealed, but the Ohio Court of Appeals (2nd District) sided with the city of Dayton, stating: "An emergency call means any call to duty."

"Our court of appeals said that immunity applies," said Brannon.

When Brannon tried to take the case to Ohio's highest court...

"Our Ohio Supreme Court wouldn't even hear the appeal," said Brannon. "If they won't hear a case like Donna Seege's, it's hard to believe they'd hear any case at all or even care enough to hear it."

Which leaves Brannon with one conclusion when it comes to crashes involving police cruisers:

"It's my opinion that virtually these cases can no longer be won," said Brannon. "This is the reality of what we're living in right now and it's not right and it's not fair and it needs to change."

Local 12's Duane Pohlman requested an interview with the police officer and Dayton's mayor to discuss this case,

Instead the city sent a short email stating: "We are going to decline to comment at this time."

Since the crash, Donna has been trying to weave her life back together, but she worries about others who have an unexpected run-in with police.

Ironically, even though the city of Dayton avoided paying for Donna's medical expenses, taxpayers still got the bill.

Medicaid had to pay the entire amount: \$258,000.

And, one more point, if you think you're comprehensive insurance policy will compensate you when the cities don't, you should probably think again.

According to Brannon, increasingly insurers are denying claims and saying they won't cover damages when the other party is at fault.

How many of these police crashes are we talking about? That's tough to say. Local 12 and Duane Pohlman are trying to get numbers, but the cities say they don't keep a list of these kinds of cases.

Attorney Brannon says he believes there are thousands of police crashes in Ohio, with very few cities paying any claims.

CINCINNATI (WKRC) - Local 12's investigation of Ohio's immunity law has uncovered dozens of emergency vehicle crashes where people are left paying the bill.

After months of requesting records from city hall, Local 12's Investigative Reporter Duane Pohlman now has those documents and they reveal how often Cincinnati claims immunity.

At the same time, the mayor and a candidate for mayor both say the man at the center of Local 12's original investigation should be paid back

But, as Duane shows, that man is still waiting.

The Cincinnati Police cruiser that lost control on a curve on August 3rd, 2015 left an impact on Bobby Burgess.

Burgess just bought a 2007 Honda Civic 9 days before the crash.

His totaled Civic now sits in his father-in-law's driveway.

"It kind of turns my stomach to see it," said Bobby. "I'm sittin' with this wreck. I can't do anything with this, obviously."

Burgess can't do anything because he's stuck with the bill from the crash. It is a total of \$12,321.65.

While the accident report clearly states the police cruiser "failed to maintain control in a curve," the city of Cincinnati denied Burgess' claim stating: "The city of Cincinnati is immune from liability for damages while police officers are on a call of duty."

This Ohio law does allow Cincinnati, and all cities in Ohio, to deny claims like Bobby's if police, fire or EMS personnel are "responding to an emergency call" and "there's no willful or wanton misconduct."

The cruiser that hit Bobby's car was responding to a robbery call with lights and siren at the time of the crash.

Local 12 wanted to know how many claims are filed at city hall and how the city handles them, so Duane Pohlman filed a public records request asking for all claims made between January 1, 2015 to April 1, 2017.

Story 3

After nearly 3 months and numerous emails, Duane finally got the records and sorted the results.

Here's the break down for the police claims:

- 27 citizens filed claims with the city to be reimbursed for damages totaling \$120,738.15.
- A little more than half those claims were approved, but the city paid the full amount of damages just five times.
- In seven cases, the city covered the deductible and nine cases were "denied" with zero payouts.
- In the end, the city of Cincinnati settled \$120,000 in claims for \$32,939.30, saving nearly \$88,000 by paying 27% of the full claims.

For Bobby Burgess, the savings for the city is a \$12,000 burden on him.

Local 12 wanted to know if Cincinnati's elected leaders thought Bobby should be reimbursed, despite the law.

Duane Pohlman repeatedly requested for a one-on-one interview with Mayor John Cranley and his opponent Councilwoman Yvette Simpson, but neither agreed.

At the Local 12 mayoral debate, before the May primary, Local 12 asked both if Burgess should be paid back.

"I think that's something that, if the law has some sort of loophole, we need to make sure we correct it. If we're at fault, we should certainly take care of it," said Yvette Simpson.

"Yeah. I think we should. Obviously, as councilmember Simpson said, we should first see if insurance covers it, but beyond that, if there are out-of-pocket losses that can be verified, I think, in this case as you described it, the answer is yes," said Mayor John Cranley.

That was in April and still, Bobby is paying for a crash that wasn't his fault.

When asked if he thought he was ever going to get his money, Bobby said: "I can only hope. I really hope so."

Local 12 and Duane will continue to try and get answers.

In the meantime, the Local 12 investigation has triggered a push for a major change at the Ohio statehouse.

Duane will tell you about the call for a new law as fallout continues from Local 12's exclusive investigation of police immunity.