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Water Wars: Interstate Compacts And The Supreme Court's Equitable Apportionment Jurisprudence

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OP-ED

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The Case for Capping Damages in Section 1983 Reversed Conviction Lawsuits

The financial stability of American cities is buckling under an unintended consequence of a Civil War-era law. Enacted in 1871 as part of the Civil Rights Act—commonly called the Ku Klux Klan Act—42 U.S.C. §1983 (Section 1983) allows individuals to sue state actors for constitutional violations committed "under color of law." For nearly 150 years, Section 1983) has been a vital tool for accountability. But in 2025, its application in reversed conviction cases has morphed into a crisis of exorbitant jury verdicts and settlements, threatening municipal budgets with awards that defy reason and fiscal reality.

Compensation for wrongful imprisonment is a moral necessity, but the current system lacks limits. Juries regularly award $1 million to $2 million per year of incarceration—sums that far exceed economic losses and imperil local governments. These verdicts, often driven by emotion rather than evidence, are increasingly detached from proof of actual innocence. Congress must step in to impose reasonable caps on Section 1983 damages, ensuring justice for the wrongfully convicted while safeguarding the public's ability to shoulder the cost.

The Financial Toll of Unchecked Verdicts

Recent awards highlight the scale of the problem. In a trial my firm recently participated in, two plaintiffs were awarded $60 million each for 16 years of imprisonment before their release—an astonishing $3.75 million per year. The plaintiffs never conclusively proved their innocence, and the jury in their civil case never heard that a criminal court judge had denied their request to be certified as innocent, finding one plaintiff's videotaped confession to be compelling evidence of guilt. The civil jury wasn't even permitted to view theconfession before determining that it was coerced. Nevertheless, the verdict was handed down. I digress.

Even if innocence were established, such monetary figures lack grounding in reality. Compare this to state compensation schemes for wrongful imprisonment, which emerged in the U.S. as a response to high-profile exonerations in the late 20th century. Starting with New York's 1984 law, 38 states and Washington, D.C., have since enacted similar statutes to provide financial relief, typically at fixed rates like Maryland's $50,000 or Texas's $80,000 per year of wrongful imprisonment. These frameworks provide substantial redress without bankrupting taxpayers.

Yet Section 1983 imposes no such restraint. In 2021, Philadelphia settled a wrongful conviction case for $9.8 million after 28 years of imprisonment—roughly $350,000 per year—while New York City paid $17 million in 2023 for a 20-year case, or $850,000 per year. These settlements, though significant, are dwarfed by outliers pushing annual damages into the millions. For cities facing claims from the 1990s or early 2000s—decades after the alleged misconduct—settlement becomes nearly impossible as verdicts soar. The result is a fiscal breaking point: taxpayers bear the burden, essential services suffer, and municipalities teeter on the edge of collapse.

The Typical Fact Pattern in Reversed Conviction Lawsuits

The path to these staggering awards often follows a predictable script. Consider a murder conviction from 30 years ago, resting on the testimony of an eyewitness who identified the defendant as the perpetrator. At trial, the case hinged on this witness's reliability—perhaps the only direct link to the crime.

Decades later, while serving a lengthy sentence, the defendant or their legal advocates revisit these witnesses. Some, who may have harbored distrust of police from the outset, are persuaded to come forward with a new story: that their original identification was coerced by law enforcement pressure, not a reflection of truth.

In cases I've worked on, these witnesses stood by their testimony for 30 years without wavering—never recanting until approached long after the fact. No new physical evidence emerges, no DNA contradicts the original verdict; the shift rests solely on a belated change of heart. Conviction Integrity Units (CIUs)—in-house teams within prosecutorial offices—frequently capitulate to these challenges, even when no new evidence has surfaced.

What begins as a decades-old criminal case then transforms into a multimillion-dollar civil claim under Section 1983, with cities left to defend actions from an era long past.

The Shaky Ground of Recanted Testimony

Worse, some plaintiffs exploit this system with calculated deception. In at least 10 cases our office has examined, recorded prison phone calls captured plaintiffs discussing fabricated evidence or attempts to bribe witnesses—clear evidence of misconduct. In those cases, we were able to thwart big payouts by cities, but this is just the tip of the iceberg. Not all scheming plaintiffs are careless enough to incriminate themselves over a recorded line, and cities cannot reasonably be expected to comb through thousands of hours of prison calls to expose baseless lawsuits.

The burden of uncovering such fraud should not fall on taxpayers and overtaxed legal departments; it's an inefficient, impractical solution to a systemic problem. When a prosecutor drops charges—often due to lost evidence, recanted testimony, or the cost of retrying an old case—it paves the way for civil liability against the police officers who investigated those cases. But dismissal is not proof of a detainee's innocence; it's often a practical choice.

Even in cases where a plaintiff is truly innocent, we still need caps on damages. Without them, the mind can spiral into wild imaginings of what amount of money is "enough" to compensate someone for lost years. Juries, swayed by emotion, have no clear guidance and may assign astronomical sums untethered from reason or precedent. There must be a limit. While no amount of money can truly restore lost time, a structured, reasonable cap—such as $500,000 per year of incarceration—balances the need for justice with the economic realities that cities face. If we don't impose boundaries, we risk turning every exoneration into a limitless financial drain on public resources, jeopardizing the very services that sustain communities.

Unlimited Damages Incentivize Prosecutors to Fight Conviction Challenges

Paradoxically, the lack of caps on Section 1983 damages undermines criminal justice reform. The specter of limitless civil liability gives prosecutors and state governments a powerful incentive to resist challenges to convictions, even when errors or injustices may have occurred.

The fear of massive financial exposure can deter prosecutors from reviewing old cases objectively. If reversing a conviction could trigger a multimillion-dollar lawsuit, government attorneys may dig in, defending convictions rather than fairly reassessing evidence. Instead of prioritizing justice, prosecutors may feel pressured to protect the city's budget—a perverse outcome that erodes the justice system's integrity.

A cap on damages would ease this tension, ensuring exoneration decisions hinge on truth and fairness, not budgetary fears or catastrophic liability. This misalignment underscores the need for caps—to ensure fairness and prevent cities from being punished for decisions by independent prosecutors who face no accountability.

The Absolute Immunity Loophole: Why Some Offices Face No Consequences While Cities Pay the Price

Beyond financial disincentives, the absolute immunity granted to prosecutors poses another core issue.

Prosecutors enjoy absolute immunity for actions taken as state advocates. This means that even if prosecutors knowingly withhold exculpatory evidence, presents false testimony, or engages in misconduct leading to a wrongful conviction, they cannot be sued under Section 1983.

This immunity does not extend to police officers or municipalities, who remain fully vulnerable to lawsuits. Consequently, when a conviction is reversed—even if due to prosecutorial misconduct rather than police error—the city and law enforcement officers involved in the original investigation are left to face the consequences.

A Call for Reasonable Limits

The absence of caps in Section 1983 lawsuits leaves cities vulnerable to unpredictable jury verdicts, creating financial uncertainty that threatens municipal stability. Plaintiffs should retain their right to sue under Section 1983 if they can prove police misconduct caused their reversed convictions, but damages should be capped at $500,000 per year of incarceration. This limit ensures cities can anticipate their maximum exposure, fostering fiscal predictability, while still offering substantial compensation to plaintiffs who prevail at trial. At $500,000 per year—ten times Maryland's baseline and well above Texas's $80,000—this amount strikes a fair balance, addressing the harm of wrongful incarceration without pushing municipalities to the brink.

Restoring the Law's Purpose

Section 1983 was enacted to protect constitutional rights, not to destabilize local governments. A $500,000-per-year cap, aligned with state compensation models, preserves plaintiffs' ability to hold police accountable for misconduct while safeguarding cities from ruinous verdicts. Congress must act promptly to enact this reform, ensuring the law fulfills its purpose without crushing municipalities under uncapped liability.



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