

Police Whistleblowers Could Help Curb Unethical Practices within the Force

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A jury in Idaho recently [awarded](#) an Idaho State Police (ISP) whistleblower a verdict of \$1.53 million on his charges of unlawful retaliation in violation of the Idaho Protection of Public Employees Act. Detective Brandon Eller had been marginalized, denied a pay increase, and transferred into less attractive night and weekend shifts after he refused to destroy reports relating to a 2011 fatality caused by another police officer. The verdict comes on the heels of several other sizable verdicts and settlements for police officers in whistleblower retaliation cases in recent years, a trend that may help create a culture of accountability within police departments moving forward.

Background on the Eller Case

On Oct. 18, 2011, Payette County Sheriff's Deputy Scott Sloan was traveling over 100 miles per hour in response to a 911 call when he accidentally rammed the Jeep of Barry Johnson, propelling Mr. Johnson from his car and causing his death. ISP Detective Eller, who had helped found Idaho's Crash Reconstruction Unit (CRU), was assigned to interview Officer Sloan during the investigation into Mr. Johnson's death. The CRU initially issued a report stating that Officer Sloan had conducted himself "without due regard for the safety of all persons."

Following the CRU investigation, the Payette County prosecutor's office charged Officer Sloan with vehicular manslaughter. During an April 2012 preliminary hearing, Detective Eller testified that Officer Sloan had been driving "without due regard for the safety of all persons," angering Detective Eller's colleagues. At some point during this process, Detective Eller's ISP superiors watered down his report and inserted language more favorable to Officer Sloan.

In June 2013, ISP Major Kevin Hudgen sent an email instructing CRU members to destroy draft reports in their case files. Detective Eller opposed the directive, suspecting it was designed to eliminate his initial unfavorable report on Officer Sloan. Regardless, the Payette County prosecutor's office decided to drop its case against Officer Sloan, based in part on the conflicting crash investigation reports.

After the decision to drop the Sloan case, ISP denied Detective Eller's request for a pay raise without justification and disbanded the CRU, transferring Detective Eller into undesirable night and weekend shift work.

Eller's Whistleblower Complaint

Detective Eller filed a complaint in the Fourth Judicial District Court in Ada County, Idaho, alleging that his mistreatment violated the Idaho Protection of Public Employees Act, Idaho Code § 6-2101 *et seq.* (IPPEA). Under the IPPEA, a state or local government employer "may not take adverse action against an employee because an employee in good faith participates or gives information in an investigation, hearing, court proceeding, legislative or other inquiry, or other form of administrative review."

The jury heard evidence that several members of the ISP had sent text messages and made verbal comments suggesting that Detective Eller had thrown the police "under the bus" and was "lucky to

have [his] job working nights and weekends.” Apparently crediting this evidence, the jury found in Detective Eller’s favor and granted him an extraordinary award: \$30,500 in lost wages, plus another \$1.5 million in damages, including emotional pain and suffering.

A History of Awards for Police Whistleblowers

The award follows a history of other significant jury awards and settlements for police whistleblowers in recent years, including a [\\$2 million settlement](#) for police whistleblowers in Chicago, a [\\$755,000 verdict](#) for a police whistleblower in Oregon, a [\\$155,000 settlement](#) for a detective in Florida, and a [\\$40,000 verdict](#) for a whistleblower in Atlantic City.

These results are encouraging on two fronts. First, they tell officers and detectives that they have [whistleblower protections](#) against reprisal if they speak out against unlawful or unethical practices within the force. Second, they remind unethical officers that if they don’t follow the rules, it may not be a kid with a cellphone camera who reports them – it could be one of their own.