

## [A pattern of brutality: Jury awards \\$175K to handcuffed suspect beaten by Miami cop](#)

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Gerald Lelieve

A federal jury has awarded \$175,000 to a former Miramar resident, now a state prisoner, who it found was brutalized while in Miami police custody in 2006.

Gerald Lelieve suffered severe internal injuries that nearly killed him when he was repeatedly kicked and stomped as he lay on the ground in handcuffs after his arrest on a drug charge, according to court documents and his Fort Lauderdale lawyer Greg Lauer.

The jury also determined the Miami Police Department set the stage for what happened through a “policy, practice or custom” of depriving suspects of their constitutional right to be free from its officers’ use of excessive or unreasonable force, and that the city was indifferent to the consequences.

On March 20, U.S. District Judge Cecilia Altonaga ordered the city to pay \$100,000 in damages for Lelieve’s pain and suffering. The balance – including \$50,000 in punitive damages – was assessed against Officer Odney Belfort for his use of excessive force “with malice.” Large damage awards against individual police officers are unusual.

Evidence focused on the city’s failure to adequately supervise and discipline Belfort. The city and Belfort, who denied assaulting Lelieve, have asked Altonaga for a new trial.

The jury of five men and three women listened to testimony for three days in mid-March, according to a transcript of the proceedings

They gave audience to Assistant Miami City Attorney Christopher Green as he declared in opening arguments, “This is a case about credibility, pure and simple.”

They watched as Miami Officer Odney Belfort took the witness stand and denied attacking Lelieve, and insisted he wasn’t even present during the arrest on Oct. 11, 2006 arrest. “I was not there,” Belfort said.

They heard two other officers back Belfort up under oath – including Maj. Keith Cunningham, who now heads of MPD’s North District.

But in the end the jury didn’t believe the police. They believed Lelieve, who told a very different story about his arrest.

“Everything corroborated what my client had to say. Their story didn’t make sense,” said Lauer, who tried the case along with Fort Lauderdale attorney Dion Cassata.

“The police were busting drug dealers, but it got to the point where the felt they could do whatever they wanted to do in the pursuit of drugs, including injuring people. It was like the Wild West. There was no oversight,” Lauer said.

Miami Police spokesman Maj. Delrish Moss declined comment saying the case remains in litigation. He referred questions to the City Attorney’s Office, which also declined comment.



Miami Police Major  
Keith Cunningham

## **COCAINE LED TO ARREST**

Lelieve, 41, was an itinerant cab and passenger-van driver with a lengthy arrest record that includes mostly drug crimes, but also one serious assault. Public record show he has listed addresses in Miramar and Miami, although he gave an Orlando address at the time of his 2006 arrest.

Today, Lelieve is serving 6 ½ years in Florida’s Marion Correctional Institution for cocaine trafficking. He sold no drugs, but according to police was holding 59.6 grams when they arrested him driving away from a Little Haiti drug house. That’s above the 28-gram threshold where possession becomes trafficking under Florida law.

Without a lawyer, Lelieve later sued the city and Belfort for violating his constitutional rights. His complaints were dismissed four times until it was reviewed by the federal Volunteer Lawyers Project, which offers free representation to the indigent, and found to have merit.

Belfort and his partner, Desreen Gayle, were undercover “eyeballs” that evening, police slang for officers who conduct surveillance. They radioed a description of Lelieve to fellow officers in the city’s Crime Suppression Unit who took him down, despite his strong protests of innocence-

Lelieve heard an officer radio Belfort, apparently double-checking that they’d gotten the right guy.

Soon, Belfort appeared. “They asked him, ‘That’s him? He say yes,’” Lelieve testified.



## BEATEN SUSPECT HEARS A POP IN HIS STOMACH

Belfort was face up on the ground with his hands cuffed behind him as Belfort approached him. “He say I think I am slick and he started kicking me,” Lelieve said in broken English. “When he kicked me I feel something pop in my stomach.”

Lelieve, a native of Haiti who stands six-foot-one and weighs more than 200 pounds, couldn’t defend himself. “I tried to move my side, but he keep on kicking me...about seven times.”

“I recognized Officer Belfort when he kicked me. I will always remember his face,” Lelieve said.

Other members of the city’s [Crime Suppression Unit](#), an elite drug-busting squad, did nothing to stop Belfort. But when the beating was finished one asked, “Why did he do that?” said Lelieve.

Helped to his feet and into a police van, Lelieve complained of pain. He briefly saw a doctor. “He just touched my stomach and he say I am all right,” Lelieve said. “He don’t even do an x-ray or nothing.”

But overnight in a holding cell at the Miami-Dade County Jail, Lelieve lay on the concrete floor and threw up. The following afternoon, a nurse sent him to Jackson Memorial Hospital by ambulance. He told medics the police had hurt him.

Dr. Mauricio Lynn saw Lelieve. He diagnosed blunt abdominal trauma, and found enough blood in his belly to fill a two-liter bottle. He operated to repair a large tear in his patient’s abdominal cavity. Lelieve spent more than a week in the hospital.

The city’s lawyers offered jurors no explanation as to how Lelieve came to be seriously injured while in police custody. Nor did they call to testify other officers who were present during the arrest.

The jury determined that Belfort acted with “malice or reckless indifference” when he employed excessive force on Lelieve. But it was their finding of Miami’s “policy, practice or custom” of allowing officers to get away with abusing suspects that formed the basis of the damage award against the city.

## A HISTORY OF COMPLAINTS

Belfort, hired in 1994, has a history of complaints related to his use of force, abusive treatment, and improper procedures. His internal affairs profile lists 29 separate incidents from 1996 to 2007.

Most were not sustained. Lelieve’s lawsuit contended the city often failed to investigate such matters, routinely filing cases away as “information only” or “inconclusive.”

The jury heard details of three Internal Affairs cases in which charges against Belfort were sustained, but no discipline was imposed. Prosecutors were not told about the cases, Lauer said.

In one 1999 case that was aggressively investigated, Belfort's behavior was similar to what Lelieve said happened to him. Belfort was accused of pepper spraying two men who didn't get out of his way fast enough as he drove by in his patrol car on NW 64<sup>th</sup> Street at First Place. Belfort denied it, saying he wasn't in the area at the time.

But investigators later determined his pepper spray canister had been used and that he hadn't reported it. They also found a witness who said he saw Belfort spray the men after punching one of them twice.

"You all can't get out of the way? You all think I'm playing?" Belfort said, according to the witness.

Belfort was found to have violated Civil Service rules that were grounds for dismissal. Instead, it was recommended he forfeit 30 days of sick time. In the end, no punishment was imposed, nor were prosecutors notified of the attack or Belfort's attempt to cover it up.

In its defense, the city presented no evidence that Internal Affairs ever investigated Lelieve's injuries – even after being put on notice by the filing of the lawsuit.

"Everything is kept in house, swept under the rug," Lauer told the jury.

In an interview, Lauer described MPD Internal Affairs as essentially a charade.



US District Judge Marcia Cooke

"It is supposed to give the appearance that they are doing something and that they want to keep violent cops off the street, but if you really look at them what they are doing is protecting each other," said Lauer.

### **MIAMI POLICE CRITICIZED BEFORE**

Miami U.S. District Court Judge Marcia Cooke said something similar in a scathing 2005 order rebuking the city about its officers' excessive use of force in another civil rights case a year before Lelieve was brutalized.

Her order focused on an apparent pattern in which Internal Affairs justified police shootings "despite evidence to the contrary."

Wrote Cooke: "The court is perplexed as to how this shoddy police work and repugnant behavior can continue, unquestioned. The facts show that this behavior continues because it is condoned by MPD supervisors, internal affairs and comrades in arms."

Juries typically don't explain themselves when they make findings after listening to the evidence. But the jury that heard Lelieve's complaint appears to have shared Cooke's thoughts.

Lauer said his client is "just happy to get his day in court and tell the jury what this officer did to him."

State records show that Lelieve is due to finish his sentence on December 3. But he won't be a free man; the U.S. Immigration and Customs Enforcement wants Lelieve detained while they move to deport him to Haiti.

Back in Miami, where the jury's decision has gone largely unnoticed, a change in police culture does not appear to be on the horizon. City Hall hasn't pushed for it. And the new police chief, Manuel Orosa, has a history that includes involvement in a notorious brutality case 23 years ago.

Orosa, a 31-year veteran on the force, was a sergeant in 1988 when a squad of Miami cops beat a drug dealer named Leonardo Mercado to death.

Orosa wasn't on the scene of the beating, but he was the supervisor of six of the cops later charged in Mercado's death. He was suspended with pay in 1989 for failing to preserve evidence in the case, and later testified for the defense in the cops' trial.