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City ordered to pay in police confrontation

False arrest | Three men were frightened after being **stopped by officers in** a downtown Portland parking garage

By STUART TOMLINSON and STEPHEN BEAVEN
THE OREGONIAN

A Multnomah County jury Monday ordered the city of Portland to pay three men a total of $175,000 for a 2007 encounter with police at a downtown parking garage in which the men accused officers of battery, assault and false arrest.

The jurors found the testimony of two independent witnesses especially compelling. The witnesses, a young college couple, saw the entire episode and corroborated the stories of the three men: Harold Hammick, Ri'Chard Booth and Alex Clay.

"Justice does work," Clay said after the verdict. "The system does work."

A city attorney had argued last week during the trial that police were acting within the law when they stopped and detained the three men in the early morning after St. Patrick's Day 2007.

The confrontation ended successfully, Portland city attorney Bill Manlove said, because there were "no injuries, no gunshots, no deaths, no high-speed chases, no foot pursuit.

"Everyone went home safe," Manlove said.

But the three young men claimed they were frightened and confused about why they had been stopped by officers who, they say, never offered an explanation.

Greg Kafoury, the attorney for the men, said that the city's defense had invoked an ugly stereotype of young black men as belligerent, con-

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STUART TOMLINSON/THE OREGONIAN

Officer Leo Besner (left) sits near plaintiffs (from left) Alex Clay, Ri'Chard Booth and Harold Hammick during a civil trial before Judge David Rees in Multnomah County Circuit Court. The men's attorneys, Jason and Greg Kafoury, are at the far right. A jury awarded the three men $175,000 in damages for false arrest.

Verdict: Men say they were held at gunpoint

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frontational and profane.

All three men have clean records, with no history of violence. Clay is a graduate of Portland State University and works with at-risk youth at Head Start. Booth assembles mattresses, and Hammick is a computer technician.

Hammick, Booth and Clay had come downtown to celebrate St. Patrick's Day in Portland's entertainment district. According to Kafoury, Hammick and Booth had returned to an SUV in the parking garage at Southwest Fourth Avenue and Alder Street when they encountered the police. Clay showed up later after stopping at a pizza parlor.

The men sued the city for $300,000 for what they described as 40 minutes of terror in which they were held at gunpoint while officers searched their car and checked to see whether the handgun Hammick was carrying was stolen.

The city tried to portray Hammick as an angry man with a gun who may have been involved in an altercation on the street before the encounter with police.

Officer Leo Besner testified that there was a big crowd on the street that morning, shouting and getting ready to fight. One group wore white T-shirts, and another group wore black T-shirts.

Besner said he saw Hammick on the street, running in a white T-shirt when the two groups were shouting at each other. He later came across him in the parking garage in the SUV about 2:45 a.m.

Early in the encounter, Hammick told Besner he had a gun and handed over his concealed weapon permit, Besner testified.

After Hammick indicated the gun was in his waistband, Besner drew his weapon and took a half-step back. Two other officers on the scene also pulled their weapons.

A short time later, Besner said, he cut Hammick's seat belt because he didn't want Hammick to reach near the gun to unbuckle the safety harness. Then, he told Hammick to get out of the car and took the handgun.

Hammick, Besner testified, was "definitely unhappy ... From the get-go, he was argumentative."

But Kafoury told a different story. All three men, he said, were wrenched from the SUV and handcuffed.

Kafoury also said that Besner punched Hammick twice in the groin and questioned his manhood during the confrontation, accusations the officer denied.

"We know that the plaintiffs were not confrontational," Kafoury told the jury during his closing. "The word they used more often than any other was 'please.'"

Hammick, he added, had tears streaming down his face.

The men also said that police told other people in the parking garage to move along, Kafoury said in closing arguments, "because they did not want witnesses."

The two witnesses who scrunched down in their car seat so they could watch the confrontation said all three men pleaded with passers-by not to leave them alone with police.

Those witnesses were a key to the jury's verdict, said forewoman Karen Nootenboom. She also said jurors felt as if Hammick, Booth and Clay "were at the wrong place at the wrong time," Nootenboom said, "and seemed to be targeted."

Race was discussed only briefly during deliberations, she added, as jurors wondered whether white men would have been treated the same.

Besner has been at the center of controversy before. In 2005, while he was a sniper with the Special Emergency Reaction Team, Besner shot a suicidal man who was holding a weapon in the backyard of a duplex. The man was on the phone with a police negotiator at the time. The city paid the man's family $500,000.

Detective Mary Wheat, a Police Bureau spokeswoman, said after the verdict that "Officers were concerned about the public's safety and their own safety and making sure nobody got hurt. And no one did."