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NEWS FROM THE PORTLAND AREA AND THE NORTHWEST

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COMMENTARY

‘One peep away from getting shot’

To truly appreciate why three Portland cops acted the way they did that 2007 night in the downtown Smart Park garage, city attorney Bill Manlove told a Multnomah County jury Wednesday, you have to understand “the action-reaction principle.”

“The aggressor, the person who is acting, always has the advantage,” Manlove explained, and we need to allow an officer the leeway “to control the situation so he’s not placed at a tactical disadvantage.”

Does that leeway include mocking and ridiculing three men who have been pulled from their car at gunpoint and who are, according to eyewitnesses, so “terrified” that they are in tears and begging passers-by to hang around?

Does it mean that when a 26-year-old man hands police his concealed weapons permit at 2:40 a.m. and tells them he’s “carrying,” officers should promptly draw their firearms, point them at the heads of the men in the car, and tell the guy in the back seat, “Shut up. And if you say another thing, I’m gonna shoot you.”

And does it license the police – as attorney Greg Kafoury alleges – to subsequently conjure up a fanciful back story to justify their actions?

What we expect and demand of the police is back on trial this week as three men – Alex Clay and brothers Harold Hammick and Richard Booth – bring a $300,000 suit against the city claiming assault, battery and false arrest.

The three men are black. Sgt. Chris Davis and Officers Leo Besner and Brian Hubbard are white. However the jury eventually rules, I imagine many readers will view this through the subjective filters of race, past experience with the police and, Kafoury notes, 40 years of TV movies featuring heroic cops and hostile, drug-dealing street punks.

Let’s set the stage: Hammick, Booth and Clay went downtown to celebrate St. Patrick’s Day 2007, returning to their white Chevy Trailblazer after the bars closed down.

They tell the same story in lengthy depositions, confirmed by two witnesses in the garage. Hammick and Booth returned to the SUV first because Clay – who works for the Portland Public Schools’ Head Start program – spun off to get a pizza.

As Clay came up the parking garage stairwell, he met Portland police officers, who told him they were trying to clear the garage to ease tensions between two groups of African American males – one in white T-shirts, the other in black T-shirts – who’d recently collided on the busy city streets.

The cops followed Clay to the Trailblazer, where they asked the three men for identification. Going by the book, Hammick promptly announced, “I’m a registered carrier, and here’s my license and insurance.”

Hammick’s loaded Glock 23 was in the holster at his right hip. When he told police he was armed, Besner – the lead officer – yelled, “He’s carrying! He’s carrying!” and the three cops drew their weapons.

After Besner sliced through Hammick’s seat belt with a knife, the three men were pulled from the car and handcuffed. Hammick said he was punched twice in the groin. All three say they were scared to death and kept asking what they’d done wrong. “I thought,” Clay said, “that I was one peep away from getting shot.”

After approximately 40 minutes, the police were informed there were no outstanding warrants on the three men and they were finally released from the handcuffs. The cops departed, everyone agrees, without explanation or apology.

The police, not surprisingly, tell a different story about the confrontation. They claim in depositions that they saw Hammick and Clay among the troublemakers on the street in the white T-shirts. They argue that they told the three men to leave the garage and grew concerned when they were still sitting in the SUV 20 minutes later. And they insist the men were angry, belligerent, argumentative and, to quote Manlove, “bumping gums” when they were approached.

The police version of events was contradicted by Kafoury’s first two witnesses, Adam Ganer and Nicole Furlong. The two Portland State grads were sitting in a car 50 feet away from the Trailblazer. They were so unnerved by the cops’ aggressiveness, Ganer told me, that they dropped their seats back so they could watch the drama play out.

There are several odd twists in the cops’ story. Although the police claim they followed the three men into the parking garage as a result of their behavior on the street, Besner, Davis and Hubbard admit they never asked them about that behavior in the 40 minutes the trio were handcuffed.

Then there’s the bizarre addendum to Besner’s police report. Besner took Hammick’s Glock and concealed handgun license back to the station and was writing his report when he said Officer Brett Hawkinson happened by and glanced at Hammick’s permit photo.

Hawkinson immediately identified Hammick as a guy he’d spotted – from a half block away – earlier that night in a white T-shirt, displaying a black object under his belt and mouthing the words “gat” and “my piece.”

As Kafoury told the jury, Hammick had a 7-inch Afro on St. Patrick’s Day 2007. In his handgun permit photo, his hair is closely cropped.

“People go to prison every day in this very courthouse based on the testimony of police officers,” Kafoury noted.

And setting the record straight about what happened that night and what is acceptable police behavior, Clay said, is precisely why the three men decided to sue the city over the way they were treated.

What he found most chilling about the whole affair, Clay added, was how angry and disappointed Besner seemed when the cops’ aggressive actions weren’t met with an equally dramatic reaction.

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