

Police Held Accountable for Excessive Force

1999 jury verdict called miscarriage of justice

(AP)—A federal judge overturned a jury verdict and ruled that six Portland police officers are liable for using excessive force to apprehend a man who crashed through a glass window after taking hallucinogenic mushrooms.

U.S. Magistrate Janice Stewart, acknowledging that she gave improper jury instructions,

declared the 2003 verdict to be a "miscarriage of justice." She ordered a new trial in which a different jury will determine the damages awarded to the family of the victim, Damon Lowery, a white man who died during the encounter.

The jury will also decide if the officers should face further liability and if the city bears some responsibility because of its training policies.

"We felt this was a travesty of justice and this jury, for whatever reason, got it wrong," said Erik Heipt, the family's Seattle-based attorney who asked for the review.

Lowery, 29, of Lynnwood,

Wash., was in Portland with a friend in December 1999. Lowery took the drugs and then scuffled with the friend at a woman's house. The woman

Lowery jumped or fell through a second-story window and landed on a cement patio. Lowery then cut himself with a piece of glass and did not

officers doused him with pepper spray, according to court papers.

Stewart ruled this to be excessive force and ordered a trial to decide damages.

Stewart, in her 55-page ruling, said the shots were fired "despite the fact that Lowery had committed no serious crime, offered no resistance and posed no tangible threat to anyone, save perhaps himself." She also said nothing justified emptying entire cans of pepper spray.

Lowery then struggled to his feet and ran at an officer. The police hit him numerous times with metal batons and more

pepper spray. The officers then hog-tied Lowery, who died after being placed on a stretcher.

Evidence from the medical examiner showed that Lowery died of a self-inflicted neck wound, and asphyxiation was ruled out.

While the judge decided that police used too much force in the beginning of the encounter, the new jury will be asked to determine if police acted properly once Lowery charged at the officer. In her ruling, the judge said she should have instructed jurors that they could find the use of force was excessive at any point during the incident.

"We felt this was a travesty of justice and this jury, for whatever reason, got it wrong."

— Erik Heipt, attorney for the family of a man who died in a confrontation with Portland police

called 9-1-1. The friend met police outside and told them Lowery was on drugs, but unarmed.

As police entered the house,

comply with commands to stay on the ground, police said. An officer shot him four or five times with a shotgun that fires lead-filled sacks; three other

Dear Deanna!

After 7 years of marriage and 3 children, my husband left me for his mistress. I have trouble dealing with the fact he's a doting dad to this woman's children and he hasn't contacted his own or paid a dime of child support. He'll quit a job when the child support agency tracks him down just to keep from paying. Is this common for men and can I help enforce child support? —On a Mission

Dear Mission:

Your husband's a perpetrator making it hard for good absentee dads. He's not worth 2 cents in Chinese money. He can run, but if you go to www.supportkids.com they'll take you to the next level in getting the child support and maybe honor him as Dead Beat Dad of the Month. Classic example that any man can be a "baby daddy" but not all men can be fathers. In the long run, your kids will see him as the jerk he is.

Dear Deanna:

I'm in a distance relationship with a great man who wants to marry next year. My problem is my live-in 16 year old niece who says she's not moving anywhere. I don't want to make her move but I don't want to leave her with family either. We agreed to wait two years until she



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graduated. Not many men would make this sacrifice. My man has 19 years on his job, so he's not coming my way. What do I do? —Anonymous; Portland, Ore.

Dear Anonymous:

Your niece doesn't pay bills so she can't regulate anything. If you have custody and need to move, then she has to pack her bags. Her feelings must be considered but she'll be on her own soon and you'll be left home empty handed. Since your distance relationship has flourished enough to warrant a marriage, then it should stand the test of time and

wait for graduation. If you decide to stay, don't be selfish and get married anyway because your man will need his wife with him. Life is short—say I do, pack your bags and keep it moving.

Dear Deanna!

I work with single guys that party all the time. Now they're bringing their social life to the job. They smoke marijuana during lunch, drink beer on breaks and laugh all day at women calling on their cell phones. I want to report them to personnel but I'm not sure if I should. —Oscar; New York, NY

Dear Oscar:

Didn't your momma tell you to stay out of other people's business? Don't be a sissy and tell on them. Instead, be a man and confront them about it and share some wisdom while asking them to stop. After approaching them, if they ignore you, go make the report. If you do it the other way, they'll deny it, or swear up and down you were doing it too.

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