



Department of Police
Detroit, Michigan 48226

Coleman A. Young, Mayor
City of Detroit

have these been paid.
Cathy Packer
over 100,000
comes to city
March 13, 1992

The Honorable Coleman A. Young
Mayor of the City of Detroit
1126 City-County Building
Detroit, Michigan 48226

Dear Mayor Young:

A few days ago I learned of recommended settlements in three lawsuits. Since that time, I have gathered preliminary information concerning the events in question which I would like to provide.

1. Fatal Shooting of Reginald Pickett

On April 3, 1990, Reginald Pickett was fatally shot by Police Officer Patrick Fogarty of the Ninth Precinct. The facts surrounding the shooting, as detailed in the report of the Board of Review which reviewed the matter, are noted below.

Scout car officers assigned to the 9-Cruiser responded on the above date at 11:25 p.m. to a call reporting "B&E in progress" at 10278 Nottingham. The owner of the dwelling stated that three subjects kicked in his front door, took a bottle of liquor, and fled southbound on Nottingham. The complainant provided a physical and clothing description.

A short time later three subjects matching the descriptions were seen in the 10000 block of Nottingham and were placed under surveillance by plainclothes officers. At the time the subjects appeared to be casing houses in the area. An officer observed one of the subjects pry a security bar from a front window at 10039 Nottingham and then observed Reginald Pickett enter the house through the broken window. Approximately one minute later, Mr. Pickett handed out what appeared to be a V.C.R. The subjects departed from the premises and two of the three subjects (Arthur

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Rex and Clyde Nelson) were arrested on the lawn in front of 10010 Nottingham. Mr. Rex had the stolen V.C.R.

Mr. Pickett fled from the scene and was pursued by Officer Danny Reed and Officer Patrick Fogarty. The subject fled between the houses at 10076 and 10800 Nottingham and refused to comply with orders by Officer Fogarty, after identifying himself as a police officer, to halt. He jumped over one fence between 10076 and 10080 Nottingham and continued running when he jumped another fence at the rear of 9975 Somerset. The area was unlit. According to the Board of Review report, the subject fell as he attempted to clear the fence, got up from the ground and while attempting to recover his balance from the fall, turned sideways and pointed what appeared to be a handgun at the officer. The distance between the officer and the subject was approximately fifteen feet. Police Officer Fogarty fired twice striking Mr. Pickett once in the lower right back. Found beneath Mr. Pickett was an 8" metal stake with a wooden handle. Mr. Pickett expired the next day at Detroit Receiving Hospital.

The autopsy report indicated that the bullet entered the lower right back area and exited from the right side of the chest after passing through the liver, diaphragm and right lung.

The Board of Review, by a unanimous opinion, concluded that Officer Fogarty's actions were consistent with departmental policy and state law because he used deadly force only after reasonably fearing for his life. The Wayne County Prosecutor's Office ruled the death as a "Justifiable Homicide" and declined prosecution of the officer. On the basis of the finding that the officer acted within departmental policy, no disciplinary action was undertaken.

The recommended settlement for \$375,000 was apparently based on the probability of the jury not believing that the officer had a reasonable fear that his life was in danger at the point he fired his weapon. In reaching this conclusion, the Law Department considered that at the time of the shooting Mr. Pickett was not armed, was not facing the officer and was not a danger to the officer.

2. Fatal Shooting of Felix Hennings

The plaintiff in this lawsuit was shot and killed by Police Officer Maxie Lumbard on September 16, 1987.

Investigation disclosed that on September 13, 1987 at approximately 2:40 p.m., unidentified persons attempted entry into the side door at 8177 Leander. The lone occupant of the house at the time, a seventy-three year old man, left his premises through the front door. The police were called; however, no arrests were

made. Unfortunately, the individual was admitted to the hospital on September 14 with congestive heart failure.

On September 16, 1987, at approximately 11:54 a.m., the subject's daughter came to the house to check the premises and observed that the back door had been forced open. She called 911 from a neighbor's house and Scout 9-10, manned by Police Officers Maxey Lumbard and Denise Parker arrived a short time later. As they were approaching the house and were being met by the caller, two subjects exited the side door and ran north through the back yard. Police Officer Parker gave chase on foot and Police Officer Lumbard circled the block in his vehicle. Police Officer Parker lost the subjects in the alley and began checking behind dumpsters and in the bushy overgrown areas in nearby yards.

As he was driving on Kenney, an unidentified youth, approximately twelve years of age, pointed in a northerly direction and Police Officer Lumbard observed the two subjects who began running in different directions. Police Officer Lumbard pursued Mr. Hennings who ran to the back yard fence at 8104 Montlieu, jumped the fence, crossed the back yard and jumped the rear fence into the alley. The officer was able to finally confront the subject, who had discarded a green t-shirt, near 8119 Montlieu. The subject at this time was walking and refused to stop until Police Officer Lumbard managed to grab the back of Henning's belt with his left hand. As he was attempting to talk to the subject, Hennings suddenly attempted to grab Police Officer Lumbard's holstered weapon. The officer pushed Henning's hand away from his weapon, but Hennings made a second attempt. Police Officer Lumbard backed away to place distance between himself and the subject but the subject began moving toward the retreating officer stating "Get your shit" and reaching toward his (Henning's) back pocket. The officer continued backing and warning him that he would kill the subject unless he stopped. The subject continued his advance with his hand still in his back pocket telling the officer to "get your shit." Officer Lumbard, after backing a distance of 43 feet from their first encounter, drew his firearm and pointed it at the subject and fired after a final warning for the subject to stop. The round struck Mr. Henning in the right chest. The subject was not armed.

Seven witnesses saw all or part of these events. Witnesses confirmed the version of the events given by Police Officer Lumbard. Witnesses verified the "get your shit" comments and described Police Officer Lumbard's backward movements as "trotting," "backing up faster," "backing up so fast that I thought he was going to fall."

The Board of Review exonerated the officer and the Wayne County Prosecutor's Office ruled the shooting justifiable.

\$250,000 -

The Law Department apparently concluded that the case should be settled based on the fact that Deputy Chief John Henry stated during a deposition that he did not agree with the conclusion of the Board of Review on the propriety of the shooting. } ✓

3. Execution of Search Warrant - Twana Smith

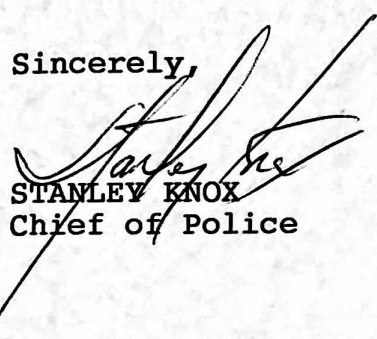
On November 19, 1988, federal postal inspectors informed the Narcotics Section of the Detroit Police Department that they were in control of a package addressed to Danielle Johnson, 14515 Sussex. The package had been previously searched pursuant to a federal search warrant and was found to contain a quantity of cocaine.

In cooperation with the postal authorities, Detroit officers obtained a search warrant for the premises at 14515 Sussex.

After the delivery of the package, the officers executed the warrant at 14515 Sussex. However, the dwelling in question is a two-family flat. Ms. Smith resides upstairs and her address is 14517 Sussex. She was brought downstairs by the officers and required to remain with the downstairs occupants until the search of the house was completed. She was handcuffed during this period. For unexplained reasons, a thorough search of the house failed to disclose the presence of the drugs. 4 1201000

No disciplinary action was taken in this case. Furthermore, based on a recommendation from the Narcotics Division, Chief of Police William L. Hart approved legal representation for the officers involved in the suit. However, on the basis of facts disclosed in the settlement recommendation submitted by the Law Department, I am in the process of reviewing the entire matter. I have directed the Commanding Officer of the Narcotics Division to prepare a complete report of all facts pertaining to this incident for my review. I will receive this report within a short time and I will then be in a position, after consulting with the Law Department, to take necessary action concerning appropriate discipline. } 7 0

Sincerely,


STANLEY KNOX
Chief of Police

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