

REPORT OF SPECIAL COMMITTEE ON
CYNTHIA SCOTT CASE

INTRODUCTION

During the early morning hours of July 5, 1963, Cynthia Scott, a 24 year old Negro woman was shot to death by Theodore Spicher, a Detroit policeman on the streets of Detroit. On July 8, 1963, Mr. Samuel H. Olsen, Wayne County Prosecuting Attorney, released the following statement to the press which exonerated Officer Theodore Spicher from any criminal liability:

I have exonerated Officer Theodore Spicher in the shooting of Cynthia Scott.

The only issue before this office is whether or not Officer Spicher was guilty of criminal negligence. The facts in this case indicate that the citizen after having committed felonious assault with a knife upon Officer Spicher and his partner, Officer Robert Marshall, was fleeing from the scene of the crime. Under these circumstances, the law is clear that the officer had a legal right to take the necessary steps to apprehend the fleeing felon.

There has been an appeal for new laws to ban the carrying of certain types of knives. Actually, the simple and much more practical solution would be to permit our police officials to enforce the laws that we now have on our statute books. Judicial decisions throughout the country, in the important field of search and seizure, and confessions, have so restricted law enforcement officials that their work has been seriously impaired. When there is a "head-on collision" between the rights of the individual defendant and the general public interest, the latter should prevail. This has not been the case in the last 10 years or so, and that is the real core of our trouble today in law enforcement. It is this philosophy which is primarily responsible for the sharp increase in crimes of violence not only in this city, but in all of our major cities throughout the country today. This case, for example, represents a classic example of utter and complete contempt for law and order."

Shortly thereafter, Superintendent of Police, Eugene Reuter, announced that the officer would not be subjected to any police action in view of the exoneration by Mr. Olsen. The action or lack thereof, taken by these two law enforcement officials and their agencies in Wayne County precipitated a great public furor and many charges and counter charges were publicly announced by private citizens and citizen groups.

The Detroit Chapter of the National Lawyers Guild discussed this case at its regular Executive Board meeting July 10, 1963. As a result of that discussion, the Executive Board directed its President, Bernard J. Fieger, to appoint a special committee to make an independent study and review of the facts and circumstances surrounding the death of Cynthia Scott. Mr. Fieger appointed the

undersigned, Nathan Conyers and Sheldon Otis, to serve as a committee for the Executive Board. The following represents our report of the study undertaken.

In gathering information for our report, we have met with and spoken to Mr. Samuel H. Olsen, Prosecuting Attorney, Wayne County, Mr. Max Silverman, Assistant Prosecuting Attorney, Wayne County, Mr. Eugene Reuter, Superintendent of Detroit police, Mr. James Lupton, Deputy Superintendent of Detroit police, and Mr. Charles Schlachter, Detective Homicide Bureau, Detroit Police Department. Both the Wayne County Prosecutor's Office and the Detroit Police Department made available to us all statements of witnesses in their possession. They have also made available to us an autopsy protocol contained in the file. We sought to obtain and examine other exhibits, which we understood to be part of the file, however, this request was denied by Mr. Silverman.

FACTS

Statements taken by Wayne County Assistant Prosecutor, Max Silverman, revealed two sharply conflicting versions of the events which occurred prior to the shooting. One version (which also contains some conflicts of its own) is related by the two Detroit police officers involved in the incident. A second version is related by various civilian witnesses at the scene when Cynthia Scott was shot. We shall deal first with the version as related by Detroit police officers, Theodore Spicher and Robert C. Marshall.

According to the officers' statements, on the morning of July 5th, they were working the midnight shift. They were in uniform and were operating a Detroit Police Department patrol car in the vicinity of John R Street and Edmund, when Officer Spicher observed a Negro woman with a man and with money in her hand on John R Street. The woman, later identified as Cynthia Scott, was known to Officer Spicher as a prostitute. He approached the deceased and the man with whom she was walking and proceeded to make a search of the man. This search disclosed a knife in the man's pocket and Officer Spicher confiscated it and ordered the man to the patrol car. He then informed Miss Scott that she was under arrest

for investigation of the crime of larceny from a person, and ordered her to enter the police car. At this point, according to Officer Spicher, Miss Scott refused to submit to the arrest and swung with a knife at Officer Spicher, slashing or cutting the index finger on his left hand. She then, according to the officer, ran around the rear of the police vehicle, and as she ran past Officer Spicher, he fired two shots at her. Following the second shot, she spun and the officer fired a third shot at her. According to Officer Marshall, he was questioning the man with whom Miss Scott was initially walking, when he heard Officer Spicher make a sound. Officer Marshall turned and noticed Miss Scott running across the street and saw Officer Spicher chasing her. Officer Marshall indicated that as Miss Scott ran 5 feet past Officer Spicher, on the other side of the street, Spicher turned and fired two shots. Officer Marshall ran up to Miss Scott and, according to his version, she swung at him with a knife, cutting the left sleeve of his shirt.

Civilian witnesses at the scene of the shooting claim that Miss Scott at no time tried to cut or injure either police officer, but, that both officers inflicted wounds upon themselves after Miss Scott had been shot. They also claim that Officer Spicher used degrading and abusive language in speaking to Miss Scott and that she did not take a knife from her person until she had actually been across the street.

CONCLUSIONS

Assuming, for the purposes of this report, only the version of events as related by the two Detroit police officers, the following legal conclusions appear clear:

1. The original stopping of Miss Scott and her male companion was wholly lacking any legal authority. The mere suspicion of an offense, without reasonable grounds to suspect that an offense has been committed, can never justify an arrest without a warrant. People v. Burt, 51 Mich. 199, People v. Stein, 265 Mich. 610. As the court stated in People v. Stein, supra, "Here general suspicion that, perhaps a crime is being committed by defendants does not justify an arrest." And in People v. Stewart, 232 Mich. 670, the court said, "But no one, whether

private person or official, has any right to make an arrest without warrant in the absence of actual belief based on actual facts creating probable cause of guilt. Suspicion without cause can never be an excuse for such action."

Officer Spicher has never claimed that he was arresting Miss Scott because of his original suspicions. Rather, he claims that after discovering the knife on the person of her male companion, which was clearly an illegal search, he told her she was being arrested for investigation of larceny from a person. It strains credulity to believe that there is any connection between the facts and circumstances leading to the attempted arrest of Miss Scott and the announced purpose given by Officer Spicher.

2. Again, assuming the facts to be as related by the two police officers, Miss Scott had a legal right to resist the unlawful arrest attempted by the use of force. People v. Demeaux, 194 Mich. 18, People v. Burt, 51 Mich. 199.

3. Neither police officer involved claims that Officer Spicher was acting in self-defense when he shot Miss Scott. Officer Spicher makes it clear that Miss Scott had already run across the street when he shot her. She was not assaulting the officer, but, as a matter of fact, was seeking to leave his presence.

4. Mr. Olsen, in his statement of July 8, 1963, justifies the shooting of Miss Scott by claiming that she was attempting to escape, and that she was a felon, who had committed a felonious assault upon Officer Spicher, thus justifying Officer Spicher's killing Miss Scott. The statement by Mr. Olsen represents one of the crudest perversions of law and fact your committee has ever encountered.

No law officer is entitled to kill, to take the life of another, even the life of an escaping felon, without the presence of strong, cogent reasons so to do. People v. McCord, 76 Mich. 200; People v. Gonsler, 251 Mich. 443.

The Detroit Police Officers' Manual itself limits the circumstances when a police officer may use a firearm in apprehending an escaping felon. Section 25 of the Manual provides in part:

"To use in extreme cases. . . when it is considered that this state, even after conviction of murder, does not invoke the death penalty, then police officers should use firearms only under certain restricted and justifiable circumstances. A police officer must not use his revolver except in extreme cases. He may use it when it is necessary to save his own