

Police - a defense verdict

By Harlan Stientjes

WCIA is in the business of working with its membership to gauge and address risk. Often the certainty a settlement brings outweighs the risk of a larger award at trial.

Back in 2020, a future claimant called 911 seeking assistance with his wife. The 911 operator asked about everyone's safety and sent officers to the home. Three officers arrived from a member's police department to find an intoxicated individual who no longer wanted to cooperate in the law enforcement response he had requested.

While talking to the individual about what was going on that night and why he had called 911, they requested his wife step outside and discuss the evening with them separately from her husband. This aggravated the individual and he physically restrained her from leaving the home. When officers have probable cause to believe a domestic violence crime was committed, they are obligated to arrest the individual under [RCW 10.99.030\(2\)\(a\)](#).

Eventually she left the home of her own free will to the front porch, to the continued aggravation of her husband. Both she and the officers continued to try and talk down the husband before she was separated from him. When she was separated, he closed the door on the officers, went inside and started drinking. He claims to have passed out at the kitchen table. Meanwhile, officers believing they had probable cause to arrest and with a valid search warrant called out the County SWAT team who eventually breached the home and took the husband into custody. Criminal charges were brought, but eventually dropped.

The husband and wife jointly filed suit against our member City alleging error in the application for the arrest warrant, violating his 4th amendment right to be free from unreasonable seizure, state law negligence, false arrest, and loss of consortium. His attorney was late filing against the County SWAT officers and took a nominal settlement to drop them from the case. WCIA made a \$62,500 offer of judgment that went unaccepted and received a \$3.415 million demand on the eve of trial. With such disparity in our values of the case, the case proceeded to trial.

Jury selection saw dismissal of three separate potential jurors that said their anti-police bias was so strong they could not be fair and impartial hearing this case. Many jurors had experience with domestic violence.

Thankfully for all involved, there was video from a porch camera of much of this interaction that guided our viewpoint of the case. Video of the incident was shown to the jurors, and they heard from all involved. The plaintiff argued he was irate out of concern the police would beat him up and because he had seen his wife forcibly removed. The officers explained what they had seen

that night and why they made the decisions they did. Our defense counsel was able to get the plaintiff to admit to being on pain killers and mixing them with alcohol. After presentation of their respective cases, both sides rested and left it with the jury.

Litigation puts an enormous mental burden on the named parties and requires substantial time in responding to discovery for member staff. For that reason, each claim requires careful evaluation and consideration of the risk posed. In this claim, the officer's CJTC (Criminal Justice Training Commission) certification may have been affected, there was punitive damage exposure to the officers, and if plaintiff was believed - the potential for an adverse verdict was large.

Thankfully, after about 90 minutes of deliberation, the jury returned a defense verdict with respect to both the officers and our member.