



**Request for City Council Committee Action
From the City Attorney's Office**

Date: February 7, 2005
To: Ways & Means/Budget Committee
Referral to: None

Subject: Talisha Miller, et al. v. John Pika, et al., Federal District Court No.: 03-6204 (ADM/AJB).

Recommendation: That the City Council approve settlement of the lawsuit filed by Talisha Miller, Dontelle Miller, Delisha Miller, Keyshonna Miller and Kenneth Bell, Federal District Court No.: 03-6204 (ADM/AJB), in the amount of \$5,000.00, payable to Talisha Miller and her attorney, Peter J. Nickitas, and authorize the City Attorney to execute any documents necessary to effectuate the settlement and release of claims, payable from Fund/Org. 6900 150 1500 4000.

Previous Directives: None.

Prepared by: Timothy S. Skarda, Assistant City Attorney, 673-2553

Approved by: _____
Jay M. Heffern
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

Financial Impact (Check those that apply)

- No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain): Payment from Fund/Org. 6900 150 1500 4000
- Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact: Build Community

Background/Supporting Information

The case arises from the service of a search warrant at the Plaintiffs' residence at 2408 17th Avenue South on November 21, 2001. The warrant was obtained as part of an investigation by the Minnesota Gang Task Force ("GTF"). Minneapolis police officers from the Emergency Response Unit ("ERU") and 3rd Precinct CRT assisted with the execution of the warrant. Minneapolis officers entered and secured the residence and then left. GTF officers searched the address and interviewed the residents. Several Minneapolis police officers were on the Gang Task Force and participated in the incident, including obtaining the search warrant, searching the premises

and interviewing the residents. Pursuant to statute, officers assigned to the Gang Task Force are considered employees of the State of Minnesota and are defended and indemnified by the State of Minnesota.

Ms. Miller and Mr. Bell were at home when the warrant was served. Also present were Ms. Miller's minor children, Dontelle, age 11; Delisha, age 9; and Keyshonna Miller, age 1. The Plaintiffs allege that their home was illegally searched and improper force was used during the execution of the warrant. The Plaintiffs also allege that property was damaged during the subsequent search of the property by Gang Task Force members. The Plaintiffs have brought 42 U.S.C. § 1983 claims and battery, trespass, invasion of privacy and false imprisonment claims. The Plaintiffs assert § 1983 liability against the City, alleging improper training and supervision of police officers.

GTF officers made a controlled purchase of crack cocaine from an individual who appeared to come out of the lower unit. During the search no information was discovered indicating that the drug dealer was a resident of the building or that drugs were being sold from the unit. The only contraband discovered was a small amount of marijuana. The warrant was served at approximately 7:00 p.m. Officers entered through a picture window and through the front door by using a shotgun round on the door lock. Officers entered with weapons drawn. The adults were handcuffed. The search warrant did not list an address, however, the search warrant affidavit did include the address.

The City is placed in an unusual situation in that the officers serving the warrant were acting at the direction of the GTF. However, the officers on the GTF who drafted the warrant, conducted the investigation and completed the search were primarily Minneapolis officers trained by the City. Defending the case would involve critiquing GTF officers, some of whom were Minneapolis officers. The City and the Attorney General attempted to negotiate a reasonable settlement before fully litigating the case. The City Attorney Litigation Committee reviewed the case and authorized a settlement offer of up to \$5,000.00. The State of Minnesota was willing to contribute a similar amount. Negotiations stalled with the Plaintiffs' final demand of \$38,000.00. A settlement conference was scheduled for February 3, 2005, with Magistrate Arthur Boylan. Prior to the settlement conference, the Plaintiffs accepted the outstanding offer of \$10,000.00 in full settlement of all claims asserted by all Plaintiffs, including damages to property, personal injury and attorney's fees.

We believe that the proposed settlement is favorable to the City and in the best interests of the City of Minneapolis. Given the number of parties and witnesses; the fact that the Plaintiffs appear to be uninvolved in the underlying criminal activity; the sympathetic nature of the Plaintiffs and liability issues between separate police agencies, we believe that the proposed settlement is in the best interests of the City of Minneapolis and recommend its approval.