

**From:** Portland Copwatch <copwatch@portlandcopwatch.org>  
**Date:** June 20, 2005 7:40:45 PM PDT  
**To:** Portland Copwatch <copwatch@portlandcopwatch.org>  
**Subject:** BRIEF REPORT: Kendra James Trial, Day 1

Hello all

Today the Kendra James civil rights lawsuit against Officer Scott McCollister got underway.

Quick news flashes are: Officer McCollister is scheduled to take the stand tomorrow (Tuesday) sometime in the morning; Chief Kroeker will not be flying in from Liberia to testify; the City is apparently no longer named as a co-defendant to Officer McCollister; and Chief Foxworth may testify on Wednesday sometime after the Jury gets to go see the car that was used by Kendra James the night of the shooting.

The morning was entirely taken up by jury selection, a pool over over 60 people that was so large that Judge Aiken excluded everyone else from the courtroom. (The sitting jury is made up of 5 women, three men, and from visual assumptions, which are not always accurate or politically defensible, it appears to be seven Euro-Americans and one Asian American).

Kendra's family lawyers (Mr. Warren and Mr. Grimes) and the defense (Mr. Wagner) made their opening statements between 2:00 and 3:30 PM.

The first witness called was eyewitness Leilani Carruthers, who recalled seeing the end part of the incident in which Kendra James was shot, though the officer who fired had his back to her at the time so she did not see the gun.

The second witness was Officer Rick Bean, who did the initial traffic stop on the car Kendra James was in. He said his main concern in the three previous times he'd stopped Kendra was her own well being. Though he apparently told the other officers Kendra would fight and run away, in reality he handcuffed her without incident the first time he saw her, after a brief struggle in which he admits her resistance did not amount to her trying to fight him or hurt him the second time, and after a five-yard long foot chase the third time. Bean noted that although he drew his gun during the incident (but didn't remember doing so) it was likely an instinctive reaction to hearing the engine roar as he stepped in front of the car; then he put the gun away and said he saw no danger to himself or others.

Bean will be cross-examined first thing in the morning.

Warning: Judge Aiken does not put up with any nonsense, defined by her own standards. The defense and the prosecution each got chewed out for one reason or another today, and she asked Officer Bean, "Can you talk any faster?" in a sarcastic manner to insist that he slow down. The audience is under tight watch, too--one US Marshall even told me to stop staring in the window while we were excluded from the jury selection process. Though I believe that process is usually open, and theoretically we were only out in the hallway because of space limitations, I didn't feel like being taken into custody for peering in a federal courtroom.

Anyway, things begin tomorrow at 8:30 AM in room 13 B at the federal courthouse (3rd and SW Salmon), it should be an interesting day.

I'll try to get more details out if I can when the trial is over.  
--dan h.

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**From:** Portland Copwatch <copwatch@portlandcopwatch.org>  
**Date:** June 23, 2005 8:23:40 PM PDT  
**To:** Portland Copwatch <copwatch@portlandcopwatch.org>  
**Subject:** BRIEF REPORT #2: Kendra James Trial to wrap up Friday or Monday

Hi all

I'm not sure how things ended up today at the Kendra James trial because I had to leave mid-day. At that point, the James family attorneys were cross-examining officer Ken Reynolds, who was the one that fired a Taser at Kendra. I'll get back to that in a second.

The plaintiffs (Kendra's family) rested their case Wednesday; the defense (McCollister's attorneys, who I guess are being paid by the City of Portland) will likely rest tomorrow, or maybe Monday. Then there will be much procedural discussion, closing arguments, jury instructions, and deliberations. So we don't know exactly when the verdict will come down, it could be Friday, Monday, or (less likely) Tuesday.

McCollister's testimony was much covered in the news, in essence, he said he pointed his gun at Kendra intending to shoot her to stop her from dragging him under her car, but he didn't remember anything from having that thought until he was in his patrol car and driving past her runaway vehicle to box it in moments later. He pretty much stuck to the story that he was 80 percent in the car at the time the gun went off--which brings us to....

Officer Reynolds, who as you may recall went out to dinner with McCollister for a weekly "date" of their families the day after the shooting, before McCollister was interviewed by detectives. In cross-examination by Mr. Grimes (James family lawyer up from L.A.) Reynolds admitted he is a very close friend of McCollister's and having that kind of bond would make you want to protect your friend. This, I believe, was to establish that had McCollister truly been in danger of death or serious injury, Reynolds should have done something; it also implies he might lie for McCollister.

Reynolds clearly testified that when he shot his Taser at Kendra's upper left shoulder, it was because McCollister was no longer blocking his shot, and that he fired from inside the front doorway of the car. That doorway is not very big, and if Mc Collister had still been 80 percent in the car, Reynolds would have hit him. So, in other words, as the AMA report noted in Sept. 2003 (<http://www.aclu-or.org/issues/AlbinaMinistriesReport.pdf>), it appears that McCollister, let's say, was at the very least confused

about where he was when he fired the gun. Or maybe, he was lying.

So what does this mean? The charge here is that McCollister violated Kendra James' civil rights by using excessive force in shooting her. To show that, the jury has to believe by a preponderance of evidence that he did not reasonably believe that his life was in danger.

Looking back at the trial of Damon Lowery where the jury first said there was excessive force, then said there wasn't, then the judge said there was, I am not going to give any kind of prediction.

I do think that anyone who has an interest in the case should try to come to the courtroom (Mark Hatfield Federal Courthouse, 1000 SW 3rd at Salmon, room 13b) at 8:30 AM or really any time before 5 PM tomorrow (Friday).

I'll try to send out one more summary based on what happens, and then a wrap up when it's over if I can.

Thanks,  
dan handelman

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**From:** Portland Copwatch <copwatch@portlandcopwatch.org>  
**Date:** June 26, 2005 11:35:31 PM PDT  
**To:** Portland Copwatch <copwatch@portlandcopwatch.org>  
**Subject:** BRIEF REPORT #3: Kendra James Trial May End Monday

#### Friends

Due to ever-changing rulings regarding admissible evidence and thus what witnesses will be called, the exact end of the lawsuit of the estate of Kendra James v. Scott McCollister may end by Monday evening, though it could also be Tuesday before it goes to the jury.

Friday's witnesses for the defense were mostly highly paid (\$17,000 or more apiece for one or two hours on the stand---your tax dollars at work) "experts" who defended McCollister's actions, expressing contempt at Chief Kroeker for imposing discipline at all back in 2003. Wow, what if McCollister had been fired?

It seems that all the experts are agreeing that the gun was at least 30 inches from Kendra James when it went off. Chris Bottoms, one of the James family attorneys, taped a yardstick to a toy gun and basically showed that if McCollister had been inside the car as he showed in his walk through video (which we in the courtroom get to see without the infamous black dot they put over his face for the media release of it 2 years ago) there's no way he could have fired from 30 inches without tweaking his arm all the

way back.

I haven't been keeping up with the Oregonian's reports, but I saw Friday's Tribune which mentioned Portland Copwatch being present. I should mention people from the Alliance for Police Accountability have been there too, as well as a number of ministers involved in the Albina Ministerial Alliance, and of course members of the James family. Again if you have time, it's pretty certain that the closing arguments will begin in the late morning or early afternoon Monday, though that could change depending on motions made and negotiated.

Portland Copwatch has an orientation tomorrow night so I will have to leave the courthouse earlier than PM. I'm sure if there's a verdict after I go you'll hear about it on the news.

--dan

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**From:** Portland Copwatch <copwatch@portlandcopwatch.org>  
**Date:** June 27, 2005 9:13:21 PM PDT  
**To:** Portland Copwatch <copwatch@portlandcopwatch.org>  
**Subject:** Brief Report #4: Kendra James Trial to Jury Tuesday 9 AM

**Folks:**

This is it: The civil suit of Kendra James v. Officer Scott McCollister will be heading to the jury tomorrow morning after Judge Ann Aiken reads them the jury instructions.

Today, the Defense wrapped up by playing a videotaped interview with eyewitness Terrol White, who was driving the car James was in the night McCollister shot her. Though his story was somewhat inconsistent and in some ways benefitted the defense, his testimony was essentially the same as others': He never saw McCollister inside the car, and he wasn't tripping, falling, or appearing to be in danger of being dragged under the car.

The plaintiffs called back Mr. Grimsbo, a forensics expert who challenged the Multnomah County Sheriffs' conclusion that the car could not have moved all the way up the street at idle speed. They also recalled Dr. Brady, the former state pathologist, who confirmed that because of the bullet path listed in the autopsy, Kendra James must have been shot in the back.

I was there for the somewhat dramatic closing statement by Mr. Grimes for the James family, in which he basically said the reason nobody saw Officer McCollister in danger for his life is because it did not happen. He reminded the jury that even though Kendra James may have had a drug

problem, the constitution applies to all of us equally--"you don't have to like her," he cautioned.

I left before Mr. Wagner made his closing argument for the defense.

There were some portions of the jury instructions still in contention this afternoon, so it's unclear exactly when the jury will begin deliberating, and of course there's no way to know how long they will take. I'll try to be there before 9 AM in case the place is packed like it was today.

--dan

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**From:** Portland Copwatch <copwatch@portlandcopwatch.org>  
**Date:** June 28, 2005 2:53:44 PM PDT  
**To:** Portland Copwatch <copwatch@portlandcopwatch.org>  
**Subject:** VERDICT: Officer McCollister Not Guilty of violating K James' Rights

Hey folks

This afternoon at about 12:45 PM the jury in the Kendra James v. Officer Scott McCollister civil rights lawsuit returned a verdict of not guilty. Their jury form asked both whether McCollister used excessive force by shooting and killing Kendra James and whether his action of pointing a gun at her head provoked her to flee. The jury instructions reminded them that it is not lawful to shoot at a person who is only wanted on a misdemeanor warrant, as Kendra was.

Clearly, this was a disappointment to the family, and the lawyers, who spend countless hours preparing and arguing this case.

We should not forget, however, that as tragic as Kendra's death was, it helped bring the community together--black, white, Latino, against police misconduct, and led to both the resignation/firing of Chief Kroeker and the acceptance of many elements of the "PARC Report" on police shootings in 2003. In addition, Chief Foxworth has proposed a policy which states that officers who put themselves in dangerous situations cannot justify the use of deadly force if the justification is based on those reckless actions.

The only other information shared at the very brief hearing this afternoon was the polling of the jury, which means an interpid reporter could track them down and ask them how they came to their conclusion.

It would be interesting to find out how much the City spent defending Officer McCollister, who is still in the middle of challenging the 6-month suspension he received in 2003, and compare that to how much money they paid out in the two recent large settlement cases (\$800,000 in the

protestor case and \$600,000 in the death of Damon Lowery).

I'm sure that any follow-up actions will involve the Alliance for Police and Community Accountability (503-222-5694 x34, <http://www.apca-pdx.org> ).

Thanks for your interest in this important case, and again, even if justice wasn't done today, much of the truth has come out and many positive changes are still happening as a result of what happened on May 5, 2003.

Peace  
dan h.

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