

PICKETT LAW STORY FROM BUSINESS TIMES
OCTOBER 2-16, 2015 EDITION

Attorney Sees Cases Against Police, Officials As Essential

By Randy Luvaas

Managing Editor

There's an old adage that "you can't fight City Hall." But Yakima attorney William Pickett disagrees.

He isn't the only local attorney to take on public officials in court, but recently he has made something of a specialty of cases where citizens sue government entities and police for misconduct.

Generally his practice falls into the personal injury category — medical malpractice, employment disputes, accidents and wrongful-death cases. The cases against police and other officials "just sort of evolved," he said.

He has practiced law in Yakima for 18 years, on his own since 2002 when he opened his first solo office in his garage with no air-conditioning in the summer and a space heater in the winter. Maybe that gave him a certain empathy for the "little guy" taking on powerful government entities.

"When I handled my first police misconduct case I really wasn't that interested. It was a new area to me. But the more I looked at it the more complex it became and I got more interested, and I really saw this as an area where people needed a lot of help.

"There are not a lot of lawyers willing to take those kinds of claims," he said. "I've been told more than once that in a little town like Yakima you cannot sue the police. Especially with an injury component, because a lot of times with injury claims the best witnesses are the police.

"People also said you cannot sue police and doctors and ever think you'll be able to do injury law, because who's going to help with your clients? My response is that police and doctors are human beings too and at times they make mistakes and are negligent and can cause harm. When that happens to a person, that person deserves representation — and who better to do that than a person in their own community?

"So I encourage local lawyers to step up and take those cases when they are meritorious. We have a responsibility to the citizens we serve."

His conversation is sprinkled with the term "government actor" — someone who acts as a representative of a government entity.

"Police are government actors, and in fact the strongest arm of our government," he said. "Police carry badges and guns and a vast array of weaponry that they can use against us citizens when they choose to do it. They can take away our liberty, put us in jail, even take our life. That's why it's so important that lawyers are willing to represent citizens because the courts are the only mechanism citizens have to essentially police the police."

He is not surprised that more and more cases of police misconduct have been getting headlines around the country.

“Police misconduct cases are really escalating. The awareness wasn’t always there. The press collectively has done a good job bringing this to the forefront of our consciousness so we have the discussion of what is appropriate policing and what is not.

“For a lot of years people just assumed police can do whatever they want to do. But I think in recent years some of the horrific misconduct that has come to light has people saying, “Wait a minute — isn’t there this document called the Constitution that gives citizens rights and limits the authority of any government actor, which includes police? It’s a good discussion to always be talking about.”

And while police misconduct is nothing new, Pickett thinks the problem got worse after the terrorist attacks of 2001.

“Post-9/11 just see what happened to policing in America. As citizens we were willing to give up an enormous amount of freedom and rights in the name of being protected,” he said. “That’s a natural human inclination. We want strong law enforcement, but we have to be incredibly careful in allowing law enforcement folks to do their job. There are some boundaries that also preserve the rights of citizens.

“We gave up a whole lot of freedoms post-9/11, and now years later we’re reassessing and thinking maybe we went down a dangerous road. With good reason. The Patriot Act, for example — we want to protect human rights and stop terrorists, but at what cost?”

In the future, he said, “the primary threat won’t come from abroad. It will come from our own law-enforcement forces.”

Some Examples

Pickett has represented citizens in a number of cases against police and government officials, including one that went to the 9th Circuit Court of Appeals where his client won on the basis that police denied him his right of free speech.

That case involved an incident where a black man was pulled over by Yakima police while driving for what the man claimed was racial profiling. He subsequently was arrested, he said, simply for talking back to officers.

The city paid \$65,000 to settle out of court.

“I’ve handled a lot of claims that could be resolved with a simple apology,” Pickett said. “I can’t even count the number of citizens who have sat in my office and said ‘they never even said they were sorry for the way they treated me.’”

“People are forgiving, but we get our dander up when government bullies us and then bows its neck and says ‘we’re not apologizing to you for nothin’, citizen.’ Who’s the public servant here?”

More recently he has taken on cases involving Toppenish and Yakima police where citizens accused the officers of assault.



Pickett also is handling the lawsuit filed against Yakima by former Municipal Court Clerk Sarah Matheny, who was fired for allegedly lying to the media about using her court job to access opponents' judicial records when she was running for Yakima County Clerk.

She is suing the city for retaliation, breach of contract and negligence.

"I have to view a lot of this from the perspective of a person who sees on an almost daily basis the worst side of government," he said. "I see through the eyes of my clients the abuses. I don't get to see very often the good side, but I know there are good police and good officials."

Since the attacks of 9/11, Pickett said, the United States has seen the growth of what he calls "the warrior cop mentality."

"That's where officers believe there is danger around every corner and they're unable to distinguish between a 25-year-old gangster and an 85-year-old grandmother. They treat them the same, and it's usually totally abusive.

"There's another theory of policing called the 'guardian police officer' that has recently been grabbing hold. Actually it's a throwback to days gone by when police were viewed as guardians of the community and saw themselves as members of the community. It's the cop on the beat where he knows everybody and everybody knows him."

After 9/11 "there was a huge influx of vets who when they came back from Afghanistan or Iraq found homes in police departments. It's a natural fit. But if you bring a warrior mentality to the streets of Yakima, you have no business being there," he argued.

"That's not saying we don't have problems where police have to take assertive actions, but by and large I would suggest most incidents can be handled with a guardian police mentality. The difference is a guardian does not see citizens as potential enemy combatants.

"You talk to some of the older police officers in this community and they approach situations with an angry person from a completely different mentality. They want to de-escalate the situation, to calm things down. That's versus the other type of police who want to escalate, to combat what they're faced with, to engage."

There can be an arrogance among police and government officials that makes them believe any citizen lawsuit against them is "frivolous," he noted.

"And you also hear complaints about these 'money-grubbing lawyers' out to make a buck. But when was the last time you heard of a multimillion-dollar verdict against the police in Yakima County? Most of these cases resolve for a modest payment, and typically the government says it did so to avoid the cost of litigation."

Yet government agencies already spend "exorbitant money defending these claims," Pickett said. "Law firms that defend them get paid a lot of money to do that.

"Even in our small town you see a fleet of lawyers working for the government and police, and there's a whole other legion of outside lawyers. They're all willing to come on the government dole, so to speak, and defend the rights of government against who? A citizen. It's kind of outlandish when you think about it, the disparity."

He hopes that someday all communities — including Yakima — will create citizen review panels to review police conduct.

"I'm a huge proponent of citizen review panels. Every police agency should have a group of good members of the local community who review allegations of police misconduct — and actually are given full access to information.

“We used to have something like that in Yakima, but it sort of died during the (Chief Sam) Granato years. We had a panel but it was never given any authority or any serious cases to review, and it just sort of fell apart. That’s a shame.”