

Responding to Persons Affected by Mental Illness or in Crisis

{ Evolving Methods and Standards for Law
Enforcement



Ripped from the headlines:

✂ Fullerton, CA—Beating death of Kelly Thomas (civil lawsuit and criminal prosecution of two officers)



The Problem—On the front lines with mental illness

- ⌘ De-Institutionalization beginning in the 60's and 70's + lack of meaningful funding for mental health treatment = lots of persons affected by mental illness on the street. Some estimates place it upwards of 7% of persons in contact with LE.
- ⌘ Many behaviors and symptoms involve criminal conduct (assault, DOC, threats) or cause concern that generates a police response (delusional behavior, wandering in the middle of the street).
- ⌘ Sometimes jail has been the only available resource.

Increasing level of public awareness...and scrutiny

- ⌘ Increasing presence of veterans with PTSD
- ⌘ High-profile use of force incidents involving persons affected by mental illness
- ⌘ Persons affected by mental illness and their families expect that law enforcement officers will afford them respect and compassion
- ⌘ Societal expectation that vulnerable persons will be treated accordingly



Dallas, TX—Jason Harrison killed while holding a screwdriver in his own doorway after his mother called police for assistance.

Is liability increasing?

All of the following cases had settlements or awards in excess of a million dollars.

Can we afford to NOT change the way we do business?

Ripped from the headlines:

- ⌘ Spokane, WA—Death of Otto Zehm (1.6 mil)
- ⌘ Albuquerque, NM—Shooting death of Christopher Torres (6 mil)
- ⌘ Richmond, CA—Beating death of Uriah Dach (1.5 mil)
- ⌘ Kern Co., CA—Lyle Federman killed by SWAT (1 mil)
- ⌘ Portland, OR—Death of James Chasse (3.1 mil)

Ripped from the headlines:

✂ Portland, OR—William Monroe rendered permanently disabled

The city of Portland will pay \$2.3 million to settle a federal lawsuit filed by William Kyle Monroe, a man diagnosed with bipolar disorder who was permanently disabled after Police Officer Dane Reister mistakenly fired lethal rounds at him from a beanbag shotgun in June 2011. .

"This was clearly a situation that should have been handled without the need of force, Monroe was simply acting weirdly. Reister put himself on the call, barking out commands -- the completely wrong way to approach it."

Are courts also changing
the way they scrutinize
use of force when
information is known about
a person's mental state?

Evolving Standards of Review:

‣ *Doerle v. Rutherford*

‣ *Glenn v. Washington County*

‣ *Krechman v. County of Riverside*

‣ *Dawkins v. City and County of Honolulu*

‣ *Bryan v. MacPherson*

‣ *Quezada v. County of Bernalillo*

‣ *Hayes v. San Diego County*

‣ *Sheehan v. City of San Francisco*

Honorable Mention—*Graham v. Connor*

Consideration of the *Graham* factors also contemplates that they will be applied with “careful attention to the facts and circumstances of each particular case...”

Will we soon see “Graham Plus” as the standard?

Glenn v. Washington County

Occurred in Hillsboro, Washington County, Oregon in 2006

9th Circuit Opinion published in November 2011



Court's decision....

"...we have made it clear that the desire to quickly resolve a potentially dangerous situation is not the type of governmental interest...that justifies the use of force that may cause serious injury (Deorle)."

"We also recognized in Deorle, that when dealing with EDP's who is creating a disturbance or resisting arrest, as opposed to a dangerous criminal, officers typically use less forceful tactics."

Glenn v. Washington County

Hayes v. County of San Diego





“Graham Factors” – 9th Circuit Opinion

- Hayes had committed no crime.*
- Hayes complied with the Deputies’ orders when he raised the knife and posed no clear threat at the time he was shot.*
- Hayes did not resist or attempt to evade arrest*

Duty of Reasonable Care : Pre-shooting Conduct

“Totality of the Circumstances” now includes what actions officers take before a deadly encounter.

- ⌘ *The officers did not avail themselves to all of the information that was otherwise available to them.*
 - ⌘ *How many times had Hayes previously attempted suicide?*
 - ⌘ *Was he armed?*
 - ⌘ *Was there a case manager?*
 - ⌘ *What other resources were available to the Deputies?*

Sheehan v. City and County of San Francisco

- ⌘ Argued and Submitted January 16, 2013.
- ⌘ Filed February 21, 2014.
- ⌘ SCOTUS Opinion issued May 18, 2015



Sheehan v. City and County of San Francisco

Sheehan lived in a group home for individuals with mental illness. After Sheehan began acting erratically and threatened to kill her social worker, the City and County of San Francisco (San Francisco) dispatched police officers Reynolds and Holder to help escort Sheehan to a facility for temporary evaluation and treatment. When the officers first entered Sheehan's room, she grabbed a knife and threatened to kill them. They retreated and closed the door. Concerned about what Sheehan might do behind the closed door, and without considering if they could accommodate her disability, the officers reentered her room. Sheehan, knife in hand, again confronted them. After pepper spray proved ineffective, the officers shot Sheehan multiple times.

Sheehan v. City and County of San Francisco

The Officers failed to provide a reasonable accommodation by;

- ❧ Failing to account for her mental illness.
- ❧ Should have respected her 'comfort zone'.
- ❧ Engaged in non-threatening communications.
- ❧ Used the passage of time to defuse the situation, rather than precipitate a deadly confrontation.

(Sound familiar to *Glenn v. Washington County*?)

Sheehan v. City and County of San Francisco

- ⌘ We acknowledge that the officers were forced to make split-second decisions.
- ⌘ A reasonable jury nevertheless could find that the situation had been defused sufficiently, following the initial retreat from **Sheehan's** room, to afford the officers an opportunity to wait for backup and to employ less confrontational tactics, including the accommodations that **Sheehan** asserts were necessary.

Sheehan v. City and County of San Francisco

1. The question whether §12132 “requires law enforcement officers to provide accommodations to an armed, violent, and mentally ill suspect in the course of bringing the suspect into custody,” Pet. For Cert. is dismissed as improvidently granted. Certiorari was granted on the understanding that San Francisco would argue that Title II of the ADA does not apply when an officer faces an armed and dangerous individual. Instead, San Francisco merely argues that Sheehan was not “qualified” for an accommodation, §12132, because she “pose[d] a direct threat to the health or safety of others,” which threat could not “be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services,” 28 CFR §§35.139(a), 35.104.

Sheehan v. City and County of San Francisco

2. Reynolds and Holder are entitled to qualified immunity from liability for the injuries suffered by Sheehan...The officers did not violate the Fourth Amendment when they opened Sheehan's door the first time, and there is no doubt that they could have opened her door the second time without violating her rights had Sheehan not been disabled. Their use of force was also reasonable. The only question therefore is whether they violated the Fourth Amendment when they decided to reopen Sheehan's door rather than attempt to accommodate her disability. Because any such Fourth Amendment right, even assuming it exists, was not clearly established, Reynolds and Holder are entitled to qualified immunity.

How broad is the mental health issue for law enforcement?



April 16, 2007 - Virginia Tech Massacre
Seung-Hui Cho, anxiety disorder
32 victims killed.



July 20, 2012 - Aurora, Colorado Shooting
James Eagan Holmes.
Schizoaffective disorder, 12 victims killed



December 14, 2012 - Sandy Hook Elementary
Adam Lanza, numerous mental illnesses including
schizophrenia, Asperger syndrome and obsessive
compulsive disorder, 20 victims killed

Infamous Mass Casualty Events across the Country.

- Since 2000, there have been 38 mass casualty events (four or more victims)
- Two-thirds of those events have been caused by a suspect afflicted with a mental illness

What has been Law Enforcement's response to mass casualty events?

Changing “the culture” of police response

- ⌘ “Predator—Prey” response must be suppressed and officers trained to slow down and use time to their advantage to appropriately resolve situations.
- ⌘ SWAT response must adjust— NTOA has adjusted recommendations
- ⌘ Changing attitudes about persons affected by mental illness.
- ⌘ Recognition that suicidal persons are not likely homicidal.
- ⌘ Avoiding common approaches using noise (sirens), loud voices, authoritarian demeanor in favor of a low-key, supportive approach.
- ⌘ Mental health referral and treatment if available options rather than arrest and incarceration—avoid the revolving door!
- ⌘ Officer safety remains paramount. Officers should be trained to assess risk and act accordingly.

Recognizing Mental Illness—How much training is necessary?

- ⌘ Officers are often the “first responder” to a mental health crisis.
- ⌘ Danger to self or others?
- ⌘ Recognizing symptoms of mental illness.
- ⌘ Training on general characteristics and symptoms of major mental illnesses—especially those involving potentially dangerous or destructive behavior.
- ⌘ Emphasize the importance of information gathering. Use all available information about the person to decide a course of action.
- ⌘ Officers are not expected to provide a diagnosis! This can be difficult even for trained mental health professionals.

Crisis Intervention—the Memphis Model

- ⌘ Created in response to the death of a suicidal man with schizophrenia who was known to police.
- ⌘ Crisis Intervention Team (CIT) is a framework for law enforcement specialized response to persons affected by mental illness or in crisis.
- ⌘ Two-pronged approach of: increased collaboration between law enforcement and mental health resources; and specialized training for law enforcement officers on mental health issues, crisis intervention and de-escalation techniques.

Training Programs—

- ⌘ CIT—40 hours

- ⌘ Mental Health First Aid—8 hours

- ⌘ Basic Information about mental illness by collaborating with trusted mental health provider or other expert in the field.

Tucson Experience—

↳ Mental Health Support Team

- ⌘ Service of commitment orders
- ⌘ Liaison with Mental Health Community
- ⌘ Focus on response to situations involving known mental health concerns
- ⌘ Steers clients toward treatment instead of incarceration.
- ⌘ Hopefully identify clients needing treatment before mass casualty situations result.

Significant Events in Tucson



College of Nursing Shooting
October 28, 2002

Three Nursing professors killed at the
University of Arizona Medical School

Shooter – Robert Flores

Previous contacts

- Mental Health
- Law enforcement
- Completed suicide prior to apprehension



Significant Events in Tucson



Tucson Police Officer Erik Hite

End of Watch – June 2, 2008

- Responded to “officers need assistance” call
- Pima County Deputy Wounded



Shooter – David Delich

Previous contacts

- Mental health
- Law enforcement

January 8, 2011

Mass shooting at
grocery store
parking lot event

- 6 killed, 19 wounded,
including Congresswoman
Gabrielle Giffords



Significant Events in Tucson - January 8, 2011 Shooting

Shooter – Jared
Loughner

Previous contacts

- Mental health
- Law enforcement





- ⌘ One in four adults will suffer from sort of mental health issue in their lives
- ⌘ Approximately 18% of the adult population suffers from anxiety disorders, closely followed by depression.
- ⌘ Only 1% of the population suffers from a “classic” mental illness, i.e. schizophrenia

Scope of the Problem

Shift in Philosophy – MHIST Units

Mental Health Investigative Support Team

Treatment versus Incarceration

- ⌘ “It’s the right thing to do....”
- ⌘ Mental Illness is treatable
- ⌘ More cost effective than incarceration
- ⌘ Saves money
 - ⌘ Jail costs
 - ⌘ Liability
- ⌘ Keeping patients accountable treatment plans reduces chances they will go into crisis and enhances the safety to the community, Officers and Deputies.
- ⌘ Dual criminal and civil investigations



Shift in Philosophy “Warm Transfers”

*Non-emergency check-welfare calls transferred
directly to Crisis 24/7 Hotline*

- ⌘ Staffed by trained Behavioral Health Clinicians
- ⌘ Started May 2013
- ⌘ Within six months, 1,221 calls successfully transferred
- ⌘ Provides optimum service for the patient AND enormous savings for the Department.



IACP Model Policy/Paper

Revised in 2013 with assistance
from the IACP Police Psychologist
Section.

Provided as an attachment to this
presentation.

LISA A. JUDGE, ESQ.

LEGAL ADVISOR

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LISA.JUDGE@TUCSONAZ.GOV

(520)791-4170

CPT. PAUL SAYRE

CRIMES AGAINST PERSONS BUREAU

TUCSON POLICE DEPARTMENT

THANK YOU!

