Police and the Mentally Ill

Evolution of Intervention and Police use of Force with the Mentally Ill

Presented by:
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Use of Force Legal Standard

  • Crime
  • Threat
  • Resistance

• Should and is training emphasizing more recognition someone might be mentally ill in evaluating whether to use force and what level of force in accordance with more stringent 9th circuit legal standard?
however, its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. See
In light of these facts, we agree with the Fourth and Eighth Circuits' characteriza-
tion of a taser shot as a "painful and frightening blow." Owen v. Repashaw, 833
F.3d 412, 438 (6th Cir. 2016) (quoting Hick-
son v. Young, 39 F.3d 435, 450 (6th Cir. 1994)). This analysis allows us to
determine objectively the amount of force that is necessary in a particular situa-
tion." "Deorle, 272 F.3d at 1280 (quoting Graham, 360 U.S. at 386-87, 389 n.C, 1960.)

See also Deorle, 272 F.3d at 1280. These factors, however, are not exclusive.
Rather, we examine the totality of the circumstances and consider "whatever specific
factors may be appropriate in a particular case, whether or not listed in Graham."
Franklin v. Foxworth, 31 F.3d 873, 876

We agree with the dissent that Bryan did not pose an immediate threat to
Officer MacPherson or bystanders despite his unusual behavior. It is undisputed
that Bryan was unarmed, and, as Bryan was only dressed in tennis shoes and boxer
shorts, it should have been apparent that he was unarmed. C.f. id. at 1291 ("Deorle
was wearing no shirt or shoes, only a pair of cut-off jeans shorts. There was no
shoes for him to snatch any weapons."). Although Bryan had shouted explosives to
himself while pulling his car over and had
[13–15] The “most important” factor under Graham is whether the suspect posed an “immediate threat to the safety of the officers or others.” Smith v. City of Hemet, 394 F.3d 689, 702 (9th Cir. 2005) (en banc) (quoting Chew, 27 F.3d at 1441).

“A simple statement by an officer that he fears for his safety or the safety others is not enough; there must be objective factors to justify such a concern.” Deorle, 272 F.3d at 1281. The district court concluded, whether or not listed in Chew, 27 F.3d at 1441.
Section 5150 is a section of the California Welfare and Institutions Code (specifically, the Lanterman–Petris–Short Act or "LPS") which allows a qualified officer or clinician to involuntarily confine a person deemed to have a mental disorder that makes him or her a danger to self, a danger to others, and/or gravely disabled. A qualified officer, which includes any California peace officer, as well as any specifically designated county clinician, can request the confinement after signing a written declaration. When used as a term, 5150 (pronounced "fifty-one-fifty") can informally refer to the person being confined or to the declaration itself, or colloquially as a verb) as in 'Someone was 5150ed'.

CALIFORNIA WELFARE AND INSTITUTIONS CODE, SECTION 5150, second paragraph, "... an application in writing stating the circumstances under which the person's condition was called to the attention of the officer, member of the attending staff, or professional person, and stating that the officer, member of the attending staff, or professional person has probable cause to believe that the person is, as a result of mental disorder, a danger to others, or to himself or herself, or gravely disabled."
CAMPUS LIFE AND MENTAL ILLNESS

• WHY ARE WE CONCERNED?
  • 18 TO 24 AGE GROUP
  • 1ST OR INCREASED USE OF AOD
  • STRESSORS OF HIGHER ED
  • DISTANCE FROM REGULAR/FAMILY SUPPORT
    ↑ MENTAL HEALTH ISSUES
    ↑ SUICIDE ATTEMPTS/COMPLETIONS
    ↑ EXPECTATIONS OF LAW ENFORCEMENT
Police Training on Use of Force

- **BASIC ACADEMY** – 664 HOURS (MINIMUM)
  - **LD 20 USE OF FORCE:** 12 HOURS
  - **LD 33 ARREST METHODS/ DEF TAC:** 60 HOURS
  - **LD 35 FIREARMS/CHEMICAL AGENTS:** 72 HOURS
Police Training on Mentally Ill/5150

- **BASIC ACADEMY**
  - **LD 37 PEOPLE WITH DISABILITIES:** 6 HOURS
    - MENTAL ILLNESS
    - DEVELOPMENTAL DISABILITY
    - PHYSICAL DISABILITIES
    - LAW/ETHICS/COMMUNICATION/RESPONSIBILITY/USE OF FORCE/OFFICER SAFETY TACTICS/STRESS
Police Training on Mentally Ill/5150

- DEPARTMENT TRAINING
  - FTO PROGRAM
    - REFRESH OF ACADEMY LEARNING
    - DEPARTMENT POLICY
    - LOCAL RESOURCES (IF ANY)

- LEGISLATIVELY MANDATED UPDATES
  - FIREARMS/ARREST CONTROL - YES (8 HRS/2 YRS)
  - MENTAL ILLNESS - NO
What Else Is Out There?

- Crisis Intervention Training                       16 – 40 Hrs.
- Applied Suicide Intervention Skills Training:   14 Hrs.
- Mental Health First Aid:                                       8 Hrs.
- Safe Talk:                                                                 3 Hrs.
- QPR Suicide Triage for LE:                                    8 Hrs.
- Mental Health Intro:                                             8 Hrs.
- Dispatcher CIT:                                                     16 Hrs.
Going Beyond the Training

• CIT MEETINGS
  • Addressing persons of concern in advance

• Crisis Consultation Teams / Behavioral Intervention Team
  • Campus Threat Assessment
  • Case Management

• CAMPUS OUTREACH
  • Education, Anti-Stigma Campaigns
What Can Happen if You Don’t:

- Have Top Down Buy-In
- Train and Use Best Practices
- Allow Officers to Take Time to Find Solutions
- Use Your Available Resources
- Educate the Community
Deorle-Beanbag Shotgun

- Plaintiff upset after being diagnosed with Hepatitis C, becomes intoxicated, overmedicates, and becomes mentally unstable and verbally abusive and wife calls police.
- Police arrive including a call for a special response team trained on crisis intervention.
- Officer Rutherford arrives and takes up a position with a less lethal bean bag shotgun.
- Plaintiff walking around with a toy crossbow, shouting to police to kill him, but otherwise unarmed, outside his house and hot posing a direct threat to anyone.
- Rutherford gets to within 40 feet of plaintiff when plaintiff sees him, turns toward him with crossbow and Rutherford fires beanbag at plaintiff fearing for his life, and seriously injures plaintiff.
Deorle holding

• Police should know it is objectively unreasonable to shoot... an unarmed man who;
  • Is mentally or emotionally disturbed;
  • Has been given no warning of the imminent use of such a degree of force;
  • Poses no risk of flight;
  • Presents no objectively reasonable threat to the safety of the officer or others;
  • And a team of negotiators essential to resolving such situations was en route.
1. Traffic violation; driving without seat belt;
2. Only wearing boxer shorts;
3. Irate when informed of 2nd ticket;
4. Refused commands from solo officer;
5. Exited car; acted unstable;
6. Officer: Pltf. Turned towards me, to approach;
7. Officer 20 feet away, had other weapons, in position to retreat; backup en-route.
Bryan v. MacPherson – (cont.)

8. Pltf. had no visible weapons;
9. Officer fired taser probes at Pltf.;
10. Pltf. fell on his face;

Pursuant to *Graham* and Ninth Circuit standards, taser use found to be excessive force.
Bryan re Mentally Ill

“... the purpose of detaining a mentally ill individual is not to punish him, but to help him. The government has an important interest in providing assistance to a person in need of psychiatric care; thus, the use of force that may be justified by that interest necessarily differs both in degree and in kind from the use of force that would be justified against a person who has committed a crime or who poses a threat to the community”
Story of David

What Happens When it Works
Real Life

• Gun?

• Knife?

• Unknown weapons?
Shoot or Don’t Shoot
Threats with a gun, threats of suicide by Cop, no time for crisis intervention and sudden action by threat
Shoot or Don’t shoot

Reports of intoxicated man, acting strangely, common call in this area
Officer arrives and makes contact to try and ascertain state of intoxication or if Mentally Ill
Subject retreats than throws bottle at officers, then pulls knife on officer and begins to approach
Enter or do not Enter

Officers entering home to arrest suspect of 245a, threats to kill,
Clearly intoxicated. Known to be bi-polar. Intervention attempted.
Threats to kill cops on audio as they talked to him. Concerns might have firearms or would blow up house
Concluding Remarks

“When Mental Illness and Police Collide”

Lynne L Soderberg

Work History

• 2011 to Present, Chief of Police Humboldt State University Police Department, HSU Emergency Manager
• 2007 to 2011, Lieutenant, Humboldt State University Police Department, Patrol Commander
• 2000 to 2007, Sergeant, Eureka Police Department, Patrol Supervisor / FTO Coordinator / Crisis Negotiation Supv
• 1999 to 2000, Acting Sergeant, Eureka Police Department, Patrol Supervisor
• 1996 to 1999, Detective, Eureka Police Department, Criminal Investigations / Fraud and Domestic Violence
• 1992 to 1996, Corporal, Eureka Police Department, Patrol Supervisor / Recruit Training Officer
• 1989 to 1992, Field Training Officer, Eureka Police Department, Recruit Officer Trainer
• 1985 to 1989, Police Officer, Eureka Police Department, Patrol

Education

• 2008, FBI National Academy Session 234, University of Virginia
• 1984, POST Basic Police Academy, College of the Redwoods
• 1979 to 1984, Humboldt State University, BA Physical Education

Training:


Committees:

• Sexual Assault Prevention Committee, Humboldt State University. Humboldt County Applied Suicide Intervention Skills Training Coordination Team, Superior Region Best Practices Workgroup (Suicide Prevention), CSU Student Mental Health Services Advisory Committee, Humboldt County Domestic Violence Coordination Committee

POST Certificates:

• Basic, Intermediate, Advanced, Supervisory and Management
Dale Allen is a member of the American Board of Trial Advocates (ABOTA). He has a diverse litigation practice, with an emphasis in defense of police departments and police officers in civil rights lawsuits. He has been lead counsel for the Bay Area Rapid Transit District in the civil lawsuits arising from the Oscar Grant shooting. Beside B.A.R.T. he has or currently represents a number of Northern and Central California departments including the Antioch Police Department, Emeryville Police Department, Livermore Police Department, Martinez Police Department, Merced Police Department, Napa County Sheriff’s Department, Richmond Police Department, Sanger Police Department and Union City Police Department. He has been a frequent panelist in public entity presentations on use of force and false arrest claims under the 4th amendment, and the current state of law in the use of the taser.