

Policing the Emotionally Disturbed

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In New York City from 1971 to 1975, only 1.6 percent of all police firearms discharges involved the class of people police have since come to call emotionally disturbed persons (EDPs). Still, because police were comparatively unrestrained in those years, the number of such incidents was quite large: 46, or better than 9 per year.¹ In the years since then, police shootings have declined dramatically; fatal shootings by New York police have decreased from 93 in 1971 to 11 in 1999. There, as in most big cities, police apparently have become much more sophisticated in helping officers to avoid shootings of all kinds, including those involving EDPs.

If the lawyers who call me, in my capacity as a police practices expert, to request a consultation in their cases are any indication, however, the decrease in EDP shootings may not hold true in many smaller and midsized U.S. police jurisdictions. With great regularity, I hear variants of the same story: my client's decedent, the lawyer will tell me, was a troubled young man who had just undergone a great emotional shock. He ran out onto the street with a knife, shouting and frightening people, but never really attacked anyone. The police were called; they saw him, drew their guns, and closed in on him, warning him to drop his knife. He backed up until he was against a wall, then tried to run. Because the police had cut off all his escape routes, he was then running in a police officer's direction with a knife in his hand; consequently, the police shot and killed him to defend their colleague. With only minor differences, I have worked on such cases in suburban, rural, and small city police agencies from Texas, Florida, and

New Mexico to Maine and Michigan; from California and Oregon to New Jersey and New York. They are terrible tragedies that victimize police officers as well as EDPs and their families, that strain the relationship between police and community, and that have cost police chiefs and elected officials their careers. Certainly, unlike the not-too-distant past, they no longer go unnoticed or written off as unavoidable "nut-with-a-knife" cases.

The major reason that the big cities have become more sophisticated than smaller jurisdictions in resolving EDP situations is a simple matter of numbers and exposure. The New York City Police Department (NYPD) responds to about 18,000 EDP calls every year, and even the small number that have gone wrong and resulted in tragedy have been enough to embarrass the organization and prompt it to action designed to help officers avoid hurting others and being hurt themselves. The 1985 Bronx police shooting of Elinor Bumpurs, a mentally disturbed 67-year-old, 270-pound grandmother who attacked police with a knife, for example, led to a reexamination and overhaul of the NYPD's policies related to EDPs, which has no doubt saved other lives. Not so in smaller jurisdictions, where volatile street people and deranged seniors are not a part of the routine of policing. Instead, they often come as a surprise to young officers who have been given no relevant training or, even worse, have participated in training likely to lead to overly aggressive police responses.

Consider officers untrained for their work with EDPs. They have been trained to get rational offenders to submit to their authority by approaching them forcefully and making it plain that resistance is only likely to make things worse. This intimidating approach almost always succeeds in gaining criminal

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suspects' compliance. The survival instinct rules among all rational people, and most offenders are in the crime business because they are interested in making themselves comfortable with as little effort as possible. Not so with EDPs; the police are called to handle them precisely because, for reasons that might not affect more stable individuals, they have become frightened and potentially dangerous to themselves and others. In such cases, the forceful police approaches that work so well with rational offenders—threats, intimidation, closing in on personal space—are liable to force unnecessary confrontations and to put officers into perilous circumstances from which they can extricate themselves only by resorting to the most extreme types of force, that is, by shooting. Almost universally, police recognize and act upon this distinction between rational offenders and EDPs in situations in which barricaded subjects and hostage takers are concerned, and they react accordingly. Too often, however, this distinction is overlooked in street-level encounters, and tragedy ensues.

After the fact, police have recently been prone to write off such tragedies as "suicide by cop," a classification that, in my experience, is far more often a *post hoc* justification for sloppy police work than a valid explanation of why and how somebody died. The term "suicide by cop" should describe only situations in which even officers who adhere closely to the industry standard for dealing with EDPs are given no choice but to kill them. Unfortunately, it has become a catchy descriptor for a far larger number of cases in which officers put themselves unnecessarily into harm's way and must then shoot their way out of it.

Worse yet are some of the EDP shootings by usually young and impressionable officers who have been trained to believe that every street encounter leaves them at the mercy of homicidal maniacs and that they must therefore be constantly alert and ready to shoot at an instant's notice. A longtime leader in the business of providing training to officers whose agencies are not sufficiently large or expert to develop their own is the Calibre Press, whose widely distributed videotape, "Surviving Edged Weapons,"² is illustrative. It begins with a dramatization of cavemen killing each other with "edged weapons" and proceeds through explanations and demonstrations of how psychopaths armed with swords and multiple knives can easily ambush and kill police officers, moving to a dissertation on an alleged "knife culture"

that is purportedly populated by persons of Hispanic distraction. According to former San Diego Police Chief Robert Burgreen, the tape led two of his officers to engage in inappropriate shootings.³ Burgreen is not alone in his suspicion that there may be a link between training of this nature and officers' propensity to shoot; within weeks after viewing this videotape, two officers in another police department with which I consulted shot and killed EDPs who were carrying edged weapons. One was a butter knife, held by a man who had been sitting at his table eating breakfast when police came into his house to investigate an hours-old domestic complaint. The other was a pen knife, carried by a young man whose girlfriend had broken off with him and who was shot and killed in his front yard in front of his whole family. Both had made the fatal mistake of coming within a 21-foot "zone of safety" prescribed by the Calibre Press video.

There is a message here: some police training on this subject may actually be worse than none. Any police organization or government officials or medical professionals concerned with seeing that police do their work with the least violence necessary should not content themselves with knowing that officers are being trained to interact with EDPs; they must carefully examine such training to assure that it is not sending the wrong message.

Training designed to help officers deal with EDPs should teach that there is a difference between rational offenders and EDPs and that they will be held accountable for treating these situations with the same concern for life that was demonstrated by the Los Angeles Police Department in the nationally televised low speed chase involving O. J. Simpson, a revolver, and a white Bronco. In that case, the police did all they could to avoid forcing a confrontation, even tying up one of the busiest metropolitan areas in the world during the evening rush hour. This approach worked; Simpson was taken into custody, and nobody was hurt. It also stands in sharp contrast to the testimony of the Illinois police trainer who said, after one of his officers had shot and killed a female EDP, that he would cut off negotiations after a half-hour because nothing in the world was worth more than a half-hour of police time.*

The dangers and unpredictability of police encounters with EDPs are significant, but they can be

* Readers interested in the citation for this testimony may contact Professor Fyfe directly.

reduced greatly by adherence to a few simple principles:

1. Officers should keep a safe distance away from EDPs and otherwise avoid putting themselves in harm's way when handling EDPs.

2. Officers should avoid unnecessary and provocative displays or threats of force.

3. An officer should try to avoid confronting an EDP while alone and should always make sure that back-up assistance is called so that the EDP can be contained at the same time that bystanders are cleared away.

4. One officer (the talker) should be designated to talk to the EDP, and everybody else on the scene should "shut up and listen."

5. Officers should make sure that the talker is in charge of the scene and that nobody takes unplanned action unless life is in immediate danger.

6. Officers should make sure that the talker does not threaten the EDP, but instead makes it plain that the police want to help him or her and that the way to accomplish this is for the EDP to put down any weapons and to come with the police for help.

7. Officers should take as much time as necessary to talk EDPs into custody, even if this runs into hours or days.

These principles, which can be taught and absorbed in no more than a couple of days, considerably increase the chances of resolving EDP confrontations without bloodshed; they simply equate to good, street-level police work. Learning these techniques does not guarantee success, but if the police

do all of these things and still have to shoot an EDP, the fault does not lie with the police. As doctors know, operations can be successful even though patients die; both the police and doctors can do no better than to act in the ways most likely to succeed, knowing all the while that they cannot absolutely control their clients' fates.

Because the techniques and strategies for resolving EDP situations are relatively simple, all police patrol officers, who are almost invariably the first police responders to such situations, should be trained in them and held accountable for following them. This approach would minimize the need for special units charged with particular responsibility for dealing with EDPs, reducing division within policing, and following the principle, well-known in both policing and medicine, that no specialty should be created unless its members can perform their task significantly better than can generalists. In policing as in medicine, the key to assuring that most cases conclude happily is to enhance the diagnostic and early treatment skills of the general practitioner, the profession's first contact with the great majority of people in need of help.

References

1. Fyfe JJ: Shots fired: an analysis of New York City police firearms discharges. Unpublished doctoral dissertation, State University of New York at Albany, 1978, p 679
2. Anderson D, Remsburg C: *Surviving Edged Weapons* (videotape). Northbrook, IL: Calibre Press, 1989
3. Geller WA, Scott MS: *Deadly Force: What We Know*. Washington, DC: Police Executive Research Forum, 1992, pp 336-7

Fyfe's Principles in relation to Normal Accident Theory

The rules formulated by James Fyfe for how police should deal with resistant emotionally disturbed persons (including those who might be armed) fit well with recommendations from normal accident theory (a theory - with considerable empirical support - of factors underlying risk of disasters).

Under normal accident theory, the risk of accidents is tied to 1. the interactive complexity of a system (more parts or more people interacting = higher risk) and 2. the degree of coupling in the system (tight coupling, with little capacity to accommodate things going wrong = higher risk). Normal accident theory was first applied to officer involved shootings by [David Klinger \(2005\)](#) and recently more formally by [Bryan Vila et al.](#)

Fyfe's rules:

1. Officers should keep a safe distance away from EDPs (emotionally disturbed persons) and otherwise avoid putting themselves in harm's way when handling EDPs.

[more distance = looser coupling. Better able to accommodate errors/unexpected actions]

2. Officers should avoid unnecessary and provocative displays or threats of force.

3. An officer should try to avoid confronting an EDP while alone and should always make sure that back-up assistance is called so that the EDP can be contained at the same time that bystanders are cleared away.

[clearing bystanders reduces complexity of the system, though backup officers increase complexity]

4. One officer (the talker) should be designated to talk to the EDP, and everybody else on the scene should "shut up and listen."

[reduction in complexity]

5. Officers should make sure that the talker is in charge of the scene and that nobody takes unplanned action unless life is in immediate danger.

[reduction in complexity. retain the benefit of backup officers while ameliorating the additional risk created by having more officers present]

6. Officers should make sure that the talker does not threaten the EDP, but instead makes it plain that the police want to help him or her and that the way to accomplish this is for the EDP to put down any weapons and to come with the police for help.

7. Officers should take as much time as necessary to talk EDPs into custody, even if this runs into hours or days.

[allowing as much time as needed = more slack/less pressure/looser coupling]

NYPD policy appears to largely be based on Fyfe's rules, with some additional elements. One key addition - the officer in charge is required to "Establish firearms control.

a. Direct members concerned not to use their firearms or use any other deadly physical force unless their lives or the life of another is in imminent danger."