

**The Bill Blackwood
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Formulating a Police Response to Suicidal People

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ABSTRACT

Police respond on a regular basis to calls dealing with suicidal subjects. For responding officers, this call type is often a high stress incident and often has little information that can help with a definite solution. The importance of this paper is to help inform responding officers, supervisors, and administrators of issues to consider in the planning phase when dealing with a suicidal subject inside their own residence with no other people in danger. This information gathering process is important to the call and plays a part in a decision making process. Constitutional issues surround entering a private residence without consent or a warrant for a person who has not committed a criminal offense.

Law enforcement has numerous case law protections and exceptions to help with the protection of life when a person is inside their own residence, such as exigent circumstances. Other issues to consider are state created danger and the United States Supreme Court case *Castle Rock v. Gonzales*, which states police have no duty to protect ("Police Don't Have Duty," 2005). The Public-Duty Doctrine gives police immunity as a governmental agency, stating that duty to protect is owed to the public as a whole over any one individual (USLegal.com, n.d.).

The public expects police to respond and take action in every situation. Police should take informed, thought-out action based on known information utilizing every resource available. There is no specified wait time before taking the correct actions even if the actions taken are physical in nature.

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INTRODUCTION

Mental illness is a problem all over the United States; with police having to deal with citizens suffering from depression, schizophrenia, bipolar, paranoia, and for this article: suicidal tendencies. While law enforcement officers are trained in basic mental health responses, they are not mental health professionals and should not be held to that standard. Law enforcement personnel face suicidal subject calls. These call types are some of the most taxing or stressful calls for police officers because of the unknown volatility of the subject they are dealing with.

A lot of these calls for help come in as a suicidal subject inside a residence. The police then have to attempt to make contact with them before they can determine a course of action. Responding officers will now be making entry into a residence occupied by an unknown subject who may or may not be in some type of distress.

Responding officers and supervisors now have to consider the layout of a residence and the mental and physical state of the possible subject officers will be making contact with. The fact that the person has not committed a crime and is inside a private residence which responding personnel may have to make a forced entry into should be thought out thoroughly. This starts to bring in Constitutional issues under the Fourth Amendment of search and seizure without a warrant.

The source of information must also be considered, emergency responses for assistance typically are dispatched through 911 calls from both identified and unidentified callers. While identified callers are recognized as a better, more credible source of information, the unidentified caller has to be responded to with equal speed and awareness when help is requested, taking into consideration that many callers fear

retaliation. Legal issues can arise when these calls are created by someone to harass or torment another citizen either maliciously or not (Ciminelli, 2003).

Law enforcement has numerous case law protections and exceptions to help with the protection of life when a person is inside their own residence. One of these tools is the exigent circumstances clause. However, other issues to consider are state created danger and the United States Supreme Court case *Castle Rock v. Gonzales*, which states police have no duty to protect ("Police Don't Have Duty," 2005).

Responding officers and supervisors know that police have numerous case laws and tools to consider, and they should take a full picture into account prior to entering a residence for the purpose of extracting a suicidal person. Public perception is also a driving force behind the decision process. While the courts have ruled that police have no duty to protect, the public believes police have the answer to every problem and expect appropriate action to be taken with an optimal outcome. For these reasons, police agencies should make every attempt to qualify all information prior to making any command decisions on making entry into a possible hostile situation, especially if no innocent lives are at risk.

POSITION

Responding police officers have to depend on information given by the 911 caller; some of these caller's identify themselves and serve as a good source of information as to the subject's location, past history, and other questions that may arise through the incident. Other callers may choose to call for help but wish to remain anonymous for reasons including fear of retribution, retaliation, or they may not know additional information except that an outcry was made (Ciminelli, 2003).

Kennedy, Homant and Hupp examined 240 incidents of police interaction with suicidal subject calls, which they divided into five categories. Probable suicide: a subject exhibited clear suicidal intent, through verbalization, physical actions, and some challenged responding police with a weapon while in a location of no escape in what appeared to be efforts to have police shoot them. Possible suicide: people appeared distressed acting in a manner that lead police to believe they did not care if police killed them or not. Uncertain: subject not identified as having suicidal tendencies, actual thought process towards injury or death unable to be determined based on the amount of information obtained. Suicide improbable: no apparent actions or indications that suicide was in the subjects thought process; however, suicide cannot be ruled out. No suicidal evidence: these people were clearly not trying to get shot by police, they either attempted to avoid confrontation with police or flee if a chance presented itself (Kennedy, Homant, & Hupp, 1998).

In an effort to deal with these call types, some police agencies have begun to utilize professional mental health professionals when dealing with suicidal or mentally disturbed subjects. On October 1, 2014, the cities of Hurst, Euless and Bedford (H-E-B) hired a mental health coordinator to assist police responding to suicidal, hostage, and even hoarder calls where police have to deal with mentally distressed people. Ramirez (2014) stated that “A high percentage of contacts made by the Hurst Police Department and MHMR are health wellness checks to reduce emergency detentions,” (para.11). This should help the HEB police deal with subjects in a more professional manner.

Based off research conducted by Michael Grube, lifetime aggressiveness and risk of suicide have a positive correlation (Grube, 2004). The mental health professional

chosen for this position will allow police a unique option by utilizing a trained, skilled professional to assist with people in mental crises, while at the same time possibly helping the mental health professionals maintain people on their medications in a proactive, preventative measure. The HEB area police departments believe the mental health professional enhance their ability to deal with hostile or potentially volatile scenes allows their police officers a greater chance for a positive solution to these situations (Ramirez, 2014).

Police come into contact with mentally ill people on a daily bases, thus leading to police training on observing and identifying different symptoms of mental illness. However, the danger is still there for injury of both the police officer and the subjects they deal with. Part of the issue with dealing with mentally ill or suicidal people is that neither mental illness nor suicides are illegal in nature. Some states, like Georgia, have limited statutory authority that allows them to detain and commit people into a mental health facility for evaluation. These people have to commit some action constituting a criminal activity before a court or physician can commit the subject for psychological evaluation (Batterton, 2011).

Many police supervisors and administrators operate under a philosophy that time is on responding officers' side and negotiators will talk people out of a self destructive state of mind. As the supervisor or administrator officer, safety is an important consideration. Many people think that this is what police get paid for. This is correct, but officer injury costs money, taxpayer money, along with manpower shortages if injured officers are out for weeks or even months which ultimately affects the level of service provided to the public as a whole. While different circumstances call for alternate

responses, a single subject inside a residence threatening suicide does not warrant the quick decisions that are needed if other people are inside that same house in danger of being held as possible hostages. Inevitably, no matter what the circumstances, police entry will need to be made to either protect the life of the subject or possibly the property of other people--if inside a neighborhood--from things like fire or explosion. If inside a neighborhood, other external factors such as schools and school buses returning children home are other factors to take into consideration when determining time constraints and when to make a forced entry. No matter what the reasons not to enter are, the public expects action and without public support, police duties are extremely hindered.

COUNTER POSITION

For police administrators or district attorneys, any time police are forced to make a warrantless entry into a private residence for any reason, it infringes on the public's expectation of privacy while inside their residence. The Fourth Amendment of the United States Constitution is in place to protect the citizenry against "unreasonable search and seizure," which is infringed upon anytime entry is made. The United States Supreme Court ruled in *Katz v. United States*, "only reasonable searches are permitted under the Fourth Amendment, and, in the absence of one of the judicially recognized exceptions to the warrant requirement, searches conducted without a warrant are, per se, unreasonable" (Pettry, 2011, p. 2).

Once the call for service is put in motion of a suicidal person inside their residence with basic information, legal issues start to become a concern. The United State Constitution under the Fourth Amendment protects citizens from unreasonable

search and seizure; any time police enter a private residence without a warrant, it is presumed to be unreasonable (Means & McDonald, 2010). However, the courts have addressed this issue. According to Pettry (2011), “The need for law enforcement to intervene in the face of a crisis without the requirement of judicial oversight has long been recognized by the judiciary. Chief Justice (then Judge) Burger noted in *Wayne v. United States*” (p.1). Police are not prevented from making warrantless entry and searches in the event they reasonably believe a person is in inherent danger or in need of immediate aid (Pettry, 2011).

Law enforcement has been provided by the courts clarification as to when police may enter a private residence and what the scope of this entry may entail. This exigent circumstance exception for emergency aid is one type of circumstance permitting a private residence to be entered (Means & McDonald, 2010). The United States Supreme Court ruled in *Mincey v. Arizona* that police are not prohibited from making a warrantless entry into a private residence for the purpose of searching for a person they reasonably believe is in immediate need of help (Pettry, 2011). While some states’ laws differ, protection of life is a duty of peace officers which is expected to be upheld as long as injury or a use of force issue does not take place without undue reason. Under some circumstances, officers and departments may be placed in a liability suite, especially with improper documentation of actions taken.

Police administrators may refer to the state created danger doctrine as a source to justify not taking actions to make entry in an effort to protect or preserve life in an emergency situation were a mentally ill suicidal person is uncooperative or nonresponsive to police on scene. The state created doctrine comes into effect when an

official, such as a police officer, places a citizen in a situation that causes “substantial risk of serious, immediate, and proximate harm” (USLegal.com, n.d.). In other words: a death or injury that the officer should have foreseen as a reasonable person. In addition to this legal liability issue, the United States Supreme Court ruled June 27, 2005 that police have no duty to protect. Under this doctrine, police administrators have no reason to place their personnel in a dangerous position, which could lead to the death or injury of officers or force police into a position where a subject could attempt suicide by cop.

The Public-Duty Doctrine gives police immunity, unless state waived, as a governmental agency. The duty to protect is owed to the public as a whole over any one individual (USLegal.com, n.d.). Police, state, municipalities, and other governmental entities are liable for negligent action absent statutory provisions for liability (Scott, 2008). Generally, immunity remains intact for police agencies as long as the responding officers involved can articulate they acted in good faith or the way other reasonable officers would act in a similar situation. All states retain the doctrine of residual immunity; qualified immunity is enjoyed by state officials. Qualified immunity protects officials against liability suits stemming from the performance of discretionary duties. Police must articulate in documentation an effort to protect human life or persons in need of emergency aid (Scott, 2008).

Negotiators, police administrators, and supervisors tend to believe time is on the side of a police response that waits and establishes negotiations with a subject who is open to reason. By waiting and letting time pass, a suicidal subject is given time for drugs or alcohol they may have ingested to pass through their system, opening them up to a possible peaceful solution once they start to process information like a reasonable

person. This waiting or negotiating time possibly leads to a solution without injury or deaths, depending on the stressors that have led the subject to this point of crisis. With multiple issues that could have led to this point of a barricaded suicidal person, having negotiators trained as mental health officers conducting negotiations may be able to speak with these people and talk them through an episode of mental illness like schizophrenia (Haughton, 2006).

Responding Special Weapons and Tactics officers, also known as SWAT officers, would argue that time is not on the side of police, but on the side of the people who use time to their advantage to prepare for any actions to take place in the near future, however long that may be. Zelt (2011) stated, "There is no law that specifies you must wait any specific time before using appropriate force" (p. 3). Administrators and supervisors who argue that time is on their side may also believe a reasonable person will calm down, listen, and communicate with police for a peaceful resolution. This is not a proper way to look at these types of situations; this allows the suspect time to prepare for a police entry, giving time to fortify the residence by barricading doors, booby trapping the residence, and making phone calls to people not under the control of the police negotiators. The more time given under certain situations puts more officers at risk of injury.

If SWAT is allowed to operate at the appropriate time, they can save people inside a residence by utilizing equipment in their arsenal, such as distraction devices, gas, and other less lethal munitions. If allowed the utilization of items like gas and distraction devices, a suicidal subject can be moved throughout a residence to a desired area. This may place the officers at a small advantage, and then the suicidal person will

be facing overwhelming numbers and firepower. Facing the overwhelming numbers and firepower, presumably reasonable people will surrender without incident. If the incident goes off course, the officers making the entry are equipped with other options besides lethal force--like tazers, or beanbags.

According to Zelt (2011), if situations go for a long period of time and then get resolved successfully, they are a result of competent personnel utilizing training and equipment such as less lethal options, negotiation techniques, or lethal force, which ultimately solves the situation, not merely waiting on passing time to solve a situation. True is the fact that time solves all situations; however, waiting for time to solve a situation with a suicidal subject allows the subject to dictate the outcome, time, and place--not the police who need to be in charge of the outcome and manner that events progresses if at all possible so the most safest actions possible can take place to keep innocent bystanders safe.

RECOMMENDATION

Mental illness calls for service are not uncommon for police to respond to; police have been dealing with these call types for as long as police have been answering calls for service. In the past, responding officers had very little training in dealing with mentally distressed individuals, however, today's officers are better trained in identifying mental illness and responding to these peoples needs with a proper (or at least educated) belief that they can assist these people. Mental health mental retardation (MHMR) services along with quick reacting mental health professionals are now assisting police in some areas: taking the police only for protection in case a situation turns violent. Police agencies are making attempts to do whatever they can, within

reason, to make every attempt to assist these people in crises, utilizing every asset available to bring an incident to a peaceful resolution.

One reason is that the public is placed in danger if these people decide to depart from their residence and go to places commonly frequented by suicidal people, like parks, lakes or parking lots in public places. Other issues in the news are murder suicides, where a subject will kill their family or coworkers prior to killing themselves. If police do not answer calls with the correct response as soon as a call is received indicating a dangerous situation is possible without the location of a suicidal person, innocent, unsuspecting people maybe killed without warning. In instances where a subject can be contained to a residence, police should, at a minimum, maintain a perimeter, not allowing anyone to exit the residence. Any family or friends arriving at the residence should be advised of the suicidal subject inside the residence and refused admittance or at a minimum advised about the dangerous situation prior to entering.

Negotiators and SWAT teams should, under certain circumstances, be activated and used in a manner to protect not just the suicidal subject but the other people who live in the community. Time is not always on the responding officers' side when dealing with these incidents; if communications are established with positive results, negotiations can happen while SWAT formulates a plan of action. Waiting for negotiations to prevail may not always be the correct course of action. If an opportunity for a tactical response is presented, SWAT should take action to preserve the life of the subject with the minimum amount of force necessary to bring the situation under control.

Legally, police agencies are typically immune from legal suits against unreasonable entry into a private residence. This is because of the exigent

circumstances that exist surrounding the protection of life. Officers need to document the circumstances of the call and any actions taken by both the responding officers, as well as the suicidal subject, indicating that emergency aid was the intended reason for any action taken. For these reasons, police agencies should make every attempt to qualify all information prior to making any command decisions on making entry into a possible hostile situation--especially if no innocent lives are at risk.

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