

**The Bill Blackwood
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**Mental Health Peace Officer Training:
Mandatory for All Texas Peace Officers**

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ABSTRACT

The criminal justice system is, and will always be, an evolving field of study and discipline. This system interacts with numerous other professions and professional fields of study. A current profession and field of study that is crossing over for assistance from the criminal justice field is the medical field, namely involving the aspect of mental health / illness. Law enforcement professionals have direct and indirect interactions with this community on a routine basis. It is of vital importance that the criminal justice field becomes educated in early warning signs, detection of mental illness, and referral services for individuals who are affected with a mental health disorder or developmental delay. This education system is currently being offered by the governing body of education for Texas law enforcement. Professional medical experts are willing to assist with this education, in a cooperative effort, to better equip these public servants for their first responder duties. This article will review the mental health training that is currently being offered to Texas peace officers.

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INTRODUCTION

Law enforcement officers are called to respond to many differing calls for service. These calls for service vary from alarm calls, assaults, burglaries, and thefts, just to mention a few of the investigations that these officers respond to on a frequent basis. These types of calls for service are typically reviewed and studied quite extensively in the basic police officer course and during the field training program. This process prepares law enforcement officers with the ability to respond to these scenes and investigate them thoroughly. However, there can be an additional dimension that can complicate these investigations, resulting in an escalation of force, unreasonable arrest, and communication barriers with those directly or indirectly involved in the investigation. This dimension for law enforcement is interactions with individuals with a mental illness and/or a developmental delay. Without the proper training, law enforcement officers can react in a manner that could cause a safety concern for the public and officer, lead to a negative community opinion on law enforcement, and countless hours of litigation. Therefore, Mental Health Peace Officer certificate training should be mandatory for all current Texas peace officer license holders and in the Basic Peace Officer Course.

In a recent study by Dr. Ronald C. Kessler, 55% of adults in the United States suffer from some type of mental illness in their lifetime (National Alliance on Mental Illness (NAMI), 2008). Furthermore, there are four factors that are affecting the increased interaction of law enforcement with the mentally ill and developmental delayed population in the United States: deinstitutionalization, criminalization, medicalization, and privatization (TCOLE, 2008). This information is staggering and is not disseminated in the basic peace officer course (BPOC) and in annual mandated in-

service training for Texas peace officers for proactive approaches to law enforcement. Currently, in the BPOC and mandated in-service training, the curriculum for mental health peace officer is not provided and this certificate is an elective training for peace officers in the State of Texas (TCOLE, 2013).

To date, individuals who are affected with a mental illness and developmental delays are not being provided adequate long term treatment due to the momentum of funding being slowed at the state and federal level (NAMI, 2014). Because of this lack of state and federal funding, inpatient and outpatient treatment facilities for individuals affected with these illnesses cause delays and are being forcibly removed from the treatment they require and sent to either inadequate or no treatment facilities at all. It is of no coincidence that interaction with law enforcement officers has been on the rise. Furthermore, these interactions are with no or poorly trained law enforcement officers, depending on what the individual officer or agency has decided to add to the educational tool belt for communication skills and tactics with the mentally ill.

With over half of the United States population suffering some type of mental illness (NAMI, 2008) and the previously mentioned factors, the mandatory mental health certificate training for all Texas peace officers is critical to the successful evolution of the law enforcement profession. Making this training mandatory will provide all aspects of the community (criminal justice system, law enforcement, and the public at large) with a progressive approach to community policing. Once officers are properly trained, they can respond to an incident and de-escalate the situation to avoid it from becoming a critical incident (deadly force encounter). This training can provide officers with another tool in their arsenal to avoid unnecessary incarcerations and backlogs in the criminal

justice system involving court proceedings. The public is provided a more educated and compassionate law enforcement community that is providing a safer and best interest approach to individuals affected with these disorders. Furthermore, the image of law enforcement will benefit in the media and community with this approach to policing.

POSITION

Making mental health peace officer certificate training mandatory for all peace officers would ensure a more educated and well-rounded first responder for all types of calls for service. At the current educational standard required by the State of Texas, mental health peace officer certificate training is not a part of the basic peace officer course (TCOLE, 2015). This certificate is only provided to currently appointed Texas peace officers who have two years of experience and are certified in emergency first aid/life saving techniques (TCOLE, 2008). Also, these aforementioned Texas peace officers must have successfully completed the basic crisis intervention training course (TCOLE, 2008). This certificate exceeds the previously mentioned course curriculum on educational standards for interacting with individuals with a mental illness and developmental disorder. Without this certificate training, officers will be at a disadvantage in completing their necessary public service duties.

With making mental health peace officer certificate training mandatory, law enforcement officers in the State of Texas will lessen, not only their agencies, but their own civil and criminal liability. In 1989, The United States Supreme Court established their opinion and standard for reviewing negligent training for civil liability in *Graham v. Connor*. With this well-established opinion, by the highest court in the United States, law enforcement officers have a standard established that courts use to evaluate their

conduct, training procedures, and monetary damages that they can incur for injuries they inflict to victims due to their failure to train officers (Scuro, 2002, p. 12). In essence, failure to train officers in mental health interactions provides an opportunity for civil liability for the agency and the officer. Further stated in the *Graham v. Connor* opinion, was the availability for expert witnesses to testify on behalf of a petitioner or respondent for injuries sustained due to a lack of training (Scuro, 2002, p. 12). If mental health peace officer certificate training is mandatory, this will lessen the civil liability for failure to train and subsequent injury claim. This lessened liability is twofold. One, officers will be successfully trained in recognition of mental illness and developmental delays suffered by the public for their response to calls for service. Second, these aforementioned experts are also recommended as additional instructors for the mental health peace officer certificate training course (TCOLE, 2008). Officers completing the Mental Health Peace Officer certificate training will be trained by experts, and not by untrained instructors of only law enforcement training curriculum, mitigating subsequent injury claims.

When being properly trained in interactions with individuals with mental illness and developmental delays, law enforcement officers can possibly lessen use of force incidents. In a study conducted by Mulvey and White (2014) “the mental health variable is tied to incidents where weapon force (e.g. baton, TASER)” is used (p. 412). Not all use of force incidents can be eliminated with this or all training. However, when an officer is properly trained in communication and recognition with individuals affected with mental illness, they will be able to find warning signs, utilize de-escalation

techniques, and avoid startling behavior that could cause a fearful reaction from a mentally ill individual, causing an officer to use force.

Another key component in the implementation of mandatory mental health peace officer certificate training is the avoidance of incarceration of individuals affected with a mental illness. Aufderheide and Brown (2005) showed evidence that the United States has one of the highest incarceration rates in the world, with more than two million of these incarcerated individuals having a diagnosed mental health disorder (p. 30). The Texas Department of Criminal Justice Institutional Division (TDCJ-ID) is one of the largest penal institutions in the United States. Because of the deinstitutionalization that is occurring in the United States, TDCJ-ID has become the new psychiatric hospital for the mentally ill (Aufderheide & Brown, 2005, p. 31). The criminal justice system was never designed to be a behavioral health care provider, yet this is what the prison system has become in the past few decades (Cuddeback, Scheyett, Pettus-David, & Morrissey, 2010, p. 48). Mandatory mental health peace officer certificate training directly effects the previous trend by providing an educated law enforcement and criminal justice field with the creation of a diversion program.

Mental health courts have been established in many states, and Texas is one of these states. These courts have attempted to “divert persons with mental illness out of the cycle of arrest, incarcerations, release and rearrest, and motivating to connect with treatment services to change behaviors” (Ray, 2014, p. 448). The goal of these courts is to provide an alternative to the prison system. An educated law enforcement community can make referrals to these courts, and these individuals can be ordered to a treatment facility in lieu of a long term prison incarceration. These mental health

courts will hear the alleged criminal law violation, hear the testimony from law enforcement officials and medical experts; and then make a ruling for the mentally ill individual's future. The court can rule that the mentally ill person go to a state mandated inpatient treatment facility, outpatient treatment facility, or be placed on a deferred sentencing as long as treatment orders are followed. This referral can alleviate the already overpopulated prison system and allow these individuals a second chance for themselves and life.

According to the Texas Health and Safety Code Chapter 573 Emergency Detention, Subchapter A. Apprehension by a Peace Officer or Transportation for Emergency Detention by Guardian, Sec. 573.001 (2013), Texas peace officers have the ability to conduct an emergency detention to a nearest appropriate inpatient mental health facility when a jail or similar detention facility is not deemed suitable. This chapter in the Texas Health and Safety Code provides law enforcement officers an opportunity to immediately transport and apprehended a person to a mental health facility, or authority, instead of a jail or nonmedical facility when they are in a mental health crisis. While any criminal allegation can still be addressed in an "at-large" referral or warrant filing, the pre-trial detainee / county jail facility does not have to be overburdened with a detainee that they are not suitable for treating or housing. Any and all criminal proceedings can still be addressed and the individual who cannot reasonably care for themselves, are showing evidence of severe emotional distress, and deteriorating mental condition can be brought forth to immediate medical care. This action by a trained mental health peace officer will assist the individual in emotional distress, their family, the community, and the law enforcement community at large with

this legal and reasonable action in lieu of an immediate jailing. With this information being disseminated in the mental health peace officer certificate training course; countless on-view arrests, instead of medical treatment, can be avoided.

COUNTER POSITION

Opponents of making mental health peace officer certificate training mandatory often make the comment that this course is not required by the State of Texas and the peace officer governing body on educational standards, Texas Commission on Law Enforcement (TCOLE). The State of Texas, and TCOLE, provide mandatory training hours and curriculum for the Basic Police Officer Course. As of 2013, the basic police officer course has 643 hours of curriculum established for prospective basic police officers (TCOLE, 2013). According to the State of Texas and TCOLE, mental health peace officer certificate training is not necessary training to conduct the duties of a peace officer on a daily basis. Furthermore, in order to reach the highest level of peace officer licensing in the State of Texas (Master Peace Officer), this training is not required. Also, the current standard in order to attend this elective training is that a peace officer must have at least two years of experience. When attending the basic peace officer course, one would not have two years of experience. TCOLE would have to establish new criteria for attending this course for the basic peace officer course.

While this is true, as of the 2013 State Legislative Update and TCOLE standards, so were other elective in-service training that are now mandatory for different licenses and positions as a law enforcement officer for the State of Texas. The field of law enforcement is always evolving because of new laws, scientific studies and advancement, public concern, and just the very nature of humanity. In essence, the

current standard of two years' experience can easily be changed by the governing body who made the ruling in the first place.

Another aspect that needs to be considered for not having mental health peace officer certificate training mandatory for all Texas peace officers is that a similar training course is required for the basic to master peace officer, crisis intervention training (TCOLE, 2013). Crisis intervention training and crisis intervention teams are well established in the State of Texas. This specialized response training and intervention teams have been acting in a capacity similar to a mental health peace officer without an additional mandatory training by the state. Crisis intervention teams "have the potential to redirect criminal justice-involved persons with mental illness to treatment as appropriate and improve community, officer, and public safety" (Ritter, Teller, Munetz, & Bonfine, 2010, p. 135).

Crisis intervention training and crisis intervention teams are also established training mandates. Crisis intervention training goes hand and hand with Special Weapons and Tactics Teams, as well as the patrol officer duties. In this well-established training program, there is consistency of training and trust with the officers involved in the training (Hill, Guthrie, & Ellis, 2004, p. 21). This training can be curtailed to agency needs, availability, and to the vision of that office. The current standard for mental health peace officer is not conducive to an agency, availability, and vision of specific offices of law enforcement.

While crisis intervention training and crisis intervention teams are the norm in 2015, this training and teams were not a decade ago. While making a similar course of training mandatory may seem to be just another in-service training class that no one

wants to go to and a waste of time / money. This is the same way of thinking that crisis intervention training and teams had just a few years prior. Also, the mental health peace officer certificate course is a more in-depth educational tool and process compared to crisis intervention training. Specialized units such as SWAT, CIT, and negotiators need this added element into their responses and education. Mental health peace officer certificate training continues on with where crisis intervention training has not provided full or complete answers to questions; as well as the debates in the classroom / practical exercise setting that the time factor of this training cannot address.

The time away from post and money debate is always constant with any type of continuing education. The cost of basic training, actual operating expense, and the salaries paid during absences for training provide great strain on agencies (Meade, 2009, p. 14). An administrator has to ensure that minimum staffing levels are met for timely responses and coverage, officers are allowed the allotted leaves, keep morale high, and maintain a balanced budget. Sending officers to another state mandated in-service training will only put strains on these, as well as not listed items.

However, the strain for an administrator for a lawsuit, negative media coverage, and officers affected with Post-Traumatic Stress Disorder for a critical incident involving an individual with a mental illness can be much higher. With this training being mandatory, the possibility for lawsuits, negative media coverage, and PTSD related critical incidents can be limited for the administrator's staff because they have effectively trained in appropriate and safe responses for not only them, but the public.

One final criticism that is often brought up against making mental health peace officer certificate training mandatory is that law enforcement officers are making

decisions that are not in their sphere of duties, thus they are not medical professionals or judges. Being a certified mental health peace officer does not make a peace officer a certified medical professional who is capable of diagnosing or treating an individual that is affected with a mental illness or developmental disorder. Not to mention, a peace officer does not have the ability to pass judgement or sentence on an individual accused of a crime. When a peace officer makes the decision to not arrest for an alleged criminal offense, when probable cause existed, and take the individual to a mental health treatment facility, they have in turn acted out of their official capacity and as a judge or jury. Also, when a peace officer comes to the opinion that an individual is mentally ill, they may have made a diagnosis for an individual that they are not trained or certified to conduct. The peace officer who conducts an emergency detention on an individual and takes them to a treatment hospital based upon their own assessment could have asked questions that were legally not permissible or misinterpreted an answer because of the lack of medical training / degree.

But this argument can be refuted. A peace officer does not have to (shall) make an arrest for every criminal offense that they have observed or investigated. A Fourth Amendment, Fifth Amendment and Fourteenth Amendment argument is also not reasonable one (Shen, 2013, p. 679-682). An emergency detention is in fact a seizure and removal of personal liberties. This emergency detention also has criteria, established in the Texas Health and Safety Code for an emergency detention, for questions that are asked of an individual that is in mental crisis which are well established and legally permissible. There is not a diagnosis being made by a peace officer; it is a referral to a medical professional and a court for a ruling. All actions that a

peace officer takes is subject to interpretation by an expert and a court. By the rational that peace officers are making rulings, or diagnosis, on their own during incidents they encounter would mean that officers cannot make any arrest or action when in the course of their duties.

RECOMMENDATION

All Texas peace offices should be required to complete the mental health peace officer certificate training course. This training is prudent due to growing population of mentally ill individuals due to the lack of treatment facilities available for consumers. Furthermore, a compassionate law enforcement community is required by the public and for a community based practice of law enforcement. Finally, this training course avoids unreasonable incarceration of the mentally ill with the establishment of mental health courts. For this training to become mandatory would be twofold. One, the Texas Legislature would have to make a ruling in the bi-annual legislative update for this training course to become mandatory. Two, the peace officer educational governing body, TCOLE, would have to pass an amendment to change the minimum standard for entrance into the mental health peace officer certificate training course and basic peace officer course curriculum.

Although there is a current standard of training that is similar to the mental health peace officer certificate training program, crisis intervention training, this course is not at a level that is necessary for Texas peace officers. The San Antonio Express News has pointed out that Texas is 49th out of 50 States in the United States when it comes to funding for mental health assistance (Chasnoff & Stoeltje, 2010). With this lack of funding for individuals in need of mental health assistance, it is of no surprise that

mental health facilities are being closed at an accelerated rate. The closure of these mental health treatment facilities is displacing individuals with a mental health disorder from the treatment facilities they require to an ill-suited temporary treatment facility, a family member, criminal justice system, or worse yet, being homeless.

Subsequent training does take time. The basic peace officer course will have to be extended another 40 hours, or five days. This will delay the training period of officers and officers on patrol to complete training. Notwithstanding, peace officers who have completed the basic peace officer course will be removed from patrol duties for 40 hours, or five days. This is an entire week of post assignment patrol duties for just one officer. Also, there is a similar training that is already mandatory for all Texas Peace Officers, crisis intervention training. Crisis Intervention Training has already been completed through mandates by the law enforcement governing body. No further time away from post assignment occur without the implementation of this training. Finally, the aspect of peace officers making judgements that are outside of the scope of their duties will not be conducted. The judicial branch will continue to conduct their duties of making judgements of criminal acts, while the law enforcement officer will continue to enforce the laws without the ability to make a final judgement without an oversight.

Law enforcement in the State of Texas needs to take a proactive approach to their policing standards. While state and federal funding is out of the control of law enforcement and how it is dispersed, their policing strategies are in their control. Making mental health peace officer certificate training course mandatory will lead to a more compassionate law enforcement community and a safer community for the public. Making another in-service training class mandatory for law enforcement officers can be

a difficult task with funding, time away from post assignments, and bringing in experts to train their staff. However, the difficult tasks outweigh the possible outcomes of civil and criminal liability, negative media attention, and public outcry less possible. Therefore, mental health peace officer certificate training should be mandatory for all Texas peace officers.

REFERENCES

- Aufderheide, D. H. & Brown, P. H. (2005, February). Crisis in corrections: The mentally ill in America's prisons. *Corrections Today*, 67(1), 30-33.
- Chasnoff, B., & Stoeltje, M. F. (2010, August 7). Texas 49th in mental health funding. *San Antonio Express-News*. Retrieved from http://www.mysanantonio.com/news/local_news/article/Texas-49th-in-mental-health-funding-780070.php
- Cuddeback, G. S., Scheyett, A., Pettus-Davis, C. & Morrissey, J. P. (2010, January). General medical problems of incarcerated persons with severe and persistent mental illness: A population-based study. *Psychiatric Services*, 61(1), 45-49.
- Graham v. Connor, 490 U.S. 386 (1989).
- Health and Safety Code, 19 TX. Stat. Ann. 573-.001-.002 (2013)
- Hill, R., Guthrie, Q., & Ellis, K. (2004, July). The Montgomery County CIT Model: Interacting with people with mental illness. *FBI Law Enforcement Bulletin*, 73(7), 18-25.
- Meade, W. W. (2009). *Law Enforcement and Disability Training* (Doctoral dissertation). Available from ProQuest Dissertations and Theses database. (304848038)
- Mulvey, P., & White, M. (2014). The potential for violence in arrests of persons with mental illness. *Policing: An International Journal of Police Strategies & Management*, 37(2), 404-419.
- National Alliance on Mental Illness. (2008, June). *Coverage for all: Inclusion of mental illness and substance use disorders in state healthcare reform initiatives*. Arlington, VA: NAMI.

- National Alliance on Mental Illness. (2014, December). *State mental health legislation 2014: Trends, themes & effective practices*. Arlington, VA: NAMI.
- Ray, B. (2014, September-October). Long-term recidivism of mental health court defendants. *International Journal of Law and Psychiatry*, 37(5), 448-454.
- Ritter, C., Teller, J. L. S., Munetz, M. & Bonfine, N. (2010). Crisis Intervention Team (CIT) Training: Selection effects and long-term changes in perceptions of mental illness and community preparedness. *Journal of Police Crisis Negotiations*, 10(1/2), 133-152.
- Scuro, J. (2002). Civil liability for failure to train. *Law & Order*, 50(12), 12-13.
- Shen, F. (2013, Spring). Neuroscience, mental privacy, and the law. *Harvard Journal of Law and Public Policy*, 36(2), 653-713.
- TCOLE. (2008, June). *Mental Health Peace Officer* (4001). Austin, TX: Author.
- TCOLE. (2013, January). *Basic Peace Officer Course* (1001). Austin, TX: Author.
- TCOLE. (2015, June). *Peace Officer Proficiency Chart* (221.1 and 221.3). Austin, TX: Author.