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Less-than-lethal: Crisis intervention training and the potential to reduce fatal police shootings in the Napa Valley

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Publication Date

2020-08-12

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Bridging the gap between police officers and the mentally ill in Napa and beyond:

New bill promises stricter police use-of-deadly-force law

It was a Sunday afternoon when Richard Poccia, a registered nurse out on leave, was planning to go the store to pick up some alcohol. It was Thanksgiving weekend, the high was 54 degrees and one of the neighbors was decorating for Christmas.

Alta Heights, the Napa neighborhood where Poccia lived, is bordered by the Napa River to the west and Tulocay Cemetery on the south. It's known as a peaceful, suburban enclave. But it stopped being peaceful at about 3 p.m. on Nov. 28, 2010, and Poccia would never make it to the store or celebrate Christmas.

He was shot and killed by Napa Police Officer Nick Dalessi after allegedly becoming aggressive towards officers and pulling something out of his waistband. Dalessi thought it was a gun; Brad Baker, one of the other officers at the scene, thought it was a knife and used his Taser.

The officers shot their weapons at the same time. Poccia died of a gunshot wound to the head. His body suffered barb injuries to his should and lower back.

Although the Napa County District Attorney's office ruled that the shooting was justifiable, the fatal confrontation raised serious questions about the ability of the city's police to handle encounters with disturbed or mentally ill people.

There was ample reason to believe that Poccia was seriously troubled. The officers had arrived at his home on Meek Avenue for a welfare check after receiving reports that the 60-year-old man was in a mental health crisis, drinking heavily and threatening suicide. There was also reason for officers to exercise caution; Poccia had 13 firearms registered to him and, according to police reports, they were told he previously had fantasies about SWAT coming to his home and confronting them.

Following an investigation, the Napa County District Attorney's office cleared the officers of any wrongdoing. Under existing law, "a homicide committed by a peace officer is justifiable

when necessarily committed in arresting a person who has committed a felony and the person is fleeing or resisting such arrest.”

But the law, derided by critics as “vague,” is changing, and local police stations are going to have to change with it.

In Napa that change began with Poccia.

Following a \$700,000 settlement with Poccia’s family, Napa police officers now undergo 32 hours of crisis training that includes de-escalation, role-playing, bias awareness and the use of less lethal force – like beanbag rounds and Tasers. Since then, the state of California has also mandated more extensive training for peace officers and narrowed the circumstances in which police may use deadly force.

“The CIT training must be working,” said Sara Tirado, site director of Innovations Community Center in Napa. At Innovations, a consumer-led program that provides resources like peer coaching and job training to mental health consumers, Tirado sees people every day who have had both positive and negative interactions with police. She has even had her own negative experiences with officers, but, she said, she has seen signs of progress.

An example of that is Dario Mundo Perez who, after firing at police officers at Napa’s Veterans Memorial Park June 21, 2018, was subdued with non-lethal beanbag projectiles. Officers had encountered Perez just three months earlier when he was seemingly ready to jump off the Trancas Street overpass. Police and mental health workers were at the scene for 15 hours talking him down.

Activists demand structural change

Between 2016 and 2018, there were 448 civilian deaths that resulted from police use-of-force in California, according to California Department of Justice reports. In 2018, more than half of all reported use-of-force incidents in California, which include anytime a firearm was discharged, involved individuals who were displaying signs of impairment or disability.

The bill, which was read for the first time in February, was carried in part by the momentum of activism following the killing of Stephon Clark. Clark, 22, was shot by Sacramento Police while holding a cellphone in his grandmother’s backyard on March 18, 2018. The officers did not face charges.

Passed by the state Senate in July, AB-392, explicitly states that “deadly force” is justifiable “only when necessary in defense of human life.” It will also require that an officer’s action leading up to a shooting – and whether or not de-escalation or less lethal weapons were

attempted first – be considered when deciding whether a shooting is justified. Gov. Gavin Newsom is expected to sign the bill before the legislature adjourns.

The bill states that “individuals with physical, mental health, developmental, or intellectual disabilities are significantly more likely to experience greater levels of physical force during police interactions, as their disability may affect their ability to understand or comply with commands from peace officers. It is estimated that individuals with disabilities are involved in between one-third and one-half of all fatal encounters with law enforcement.”

When Richard Poccia was killed in 2010, law enforcement agencies weren’t required to track and report these numbers. And, at the time, peace officers in California were required to undergo only six hours of mental health training.

Poccia’s family didn’t think that was enough. The family sued the city in 2011, alleging that the officers “overreacted” and escalated the situation, according to the Napa Valley Register. “Poccia complied with the officers’ orders to the best of his abilities under these circumstances,” the lawsuit states.

Witnesses who spoke to the newspaper in the days following the shooting reported that Poccia, who had been suffering from post-traumatic stress disorder and depression, had seemed compliant.

“It wasn’t like a gun battle because I only heard one shot,” Mitch Frasier said. “He seemed to be complying with what the police officers were trying to do.”

Although a trial date was scheduled, Poccia’s family settled for \$700,000 and the promise that Napa Police officers would be required to undergo more training in order to properly respond to individuals in crisis.

This was the beginning of Napa’s 32-hour course in “Crisis Intervention Training,” known as CIT.

The family’s attorney, Khaldoun Baghdadi, said that the department’s willingness to train all officers was an essential element in the settlement. Because Poccia was in crisis when he was killed, CIT training might have made a difference that day, Baghdadi said.

“It is what prompted our department-wide CIT training,” said Sgt. Kris Jenny, a veteran of 19 years in law enforcement. “It kind of put us ahead of the curve.”

The settlement was reached in 2013. It would be another three years before additional training would be mandated throughout California with the signing of Senate Bills 11 and 29 on Jan. 1,

2016. The new laws more than doubled the amount of training to 15 hours for new recruits and require continuing education for officers already on duty.

“Unfortunately, just focusing on the training doesn’t really solve the issue,” Professor Amy C Watson, PhD, of the Jane Addams College of Social Work at the University of Illinois at Chicago said. The other part of CIT training involves creating the rest of the “team.” That means bringing in community members and local resources.

“Hearing from people with lived experience and their families is really helpful for building empathy,” said Watson, who is also on the board of CIT International, a nonprofit that promotes the use of Crisis Intervention Team programs throughout the world. It’s especially important, she said, because having a mental illness already carries so much stigma.

“Oftentimes there’s this idea that people with mental illnesses are wildly more dangerous than everybody else – (but) most people with mental illnesses are not dangerous in the least,” Watson said. The stigma, however, may prevent these individuals from getting help sooner and may cause law enforcement officers to think they are going into a dangerous situation when they are simply dealing with a person in crisis who isn’t at all dangerous.

Watson said that some evidence suggests that officers who have received CIT training are more likely to try to link people to services and are less likely to make an arrest.

Does de-escalation work?

Since Poccia’s death, Napa Police have been involved in six fatal shootings, five of which were determined to be “reasonable and justifiable,” according to police records. The most recent occurred on Dec. 5, 2018, and is still under investigation.

The man killed last December, 27-year-old David Alexander Molina, had mental health issues that were well documented in Napa County’s court system. Between 2009 and 2018, he was arrested on suspicion of numerous probation violations, burglary, conspiracy, indecent exposure, assault with a deadly weapon, resisting arrest and battery on a police officer, among others. Often, Molina was deemed unsuitable for trial due to his mental state.

According to court documents, Molina was hit by a car when he was 7 years old. The accident damaged Molina’s right frontal lobe, affecting his ability to control his impulses and behavior.

Just one year before his death, correctional counsel wrote that Molina hadn’t been able to “complete daily tasks, like brushing his teeth, without prompting.”

Molina was in trouble again during the early hours of Dec. 5, 2018, when he allegedly got into an altercation with a couple he had been hanging out with earlier that day.

“He put hands on my girlfriend,” Matt Proctor told the 9-1-1 operator, noting that Molina was armed with a gun and riding a skateboard away from the scene. “He pushed her out of the way, nearly knocking me down – and I’m not small,” he added.

Just minutes after this call, Officer Christopher Simas, who was hired by Napa PD in late 2016, contacted Molina on the side of the road at 1:51 a.m. “Hey, man, what’s your name?” he says as he approaches Molina, as shown in his bodycam footage. Quickly the tone changes: “Keep your hands up ... come here ... put your hands up.”

“Fuck you, bro.” Molina responds. Simas continues to chase Molina, yelling at him to show his hands. Simas then asks if he has a gun and Molina says he doesn’t. “Then put your hands up,” the officer says.

More words are exchanged while the officer tries to handcuff Molina. Shots are fired. The footage is dark and both men are still audible – it sounds like a struggle. More shots are fired. Simas is breathing heavily as he reports “shots fired, subject down.”

According to the Napa Police, Molina went for Simas’ rifle and, if he had not been killed, would have been arrested on suspicion of attempted murder on a peace officer, resisting an officer with force, resisting/obstructing an officer and being a felon in possession of a loaded firearm.

A loaded .38 special revolver was found at the crime scene, according to police.

Simas’ bodycam footage shows him going into a wooded area alone in order to keep Molina in sight and apprehend him. The footage shows that Molina was uncooperative, but not combative other than cursing and walking away.

De-escalation is one of the biggest components of CIT training. The officers learn to assess the situation, try to figure out why the person is acting the way they are and, by asking questions and building rapport with them, calming them down. Then, depending on the situation, they either take the person to jail or connect them with resources.

Did Simas try to de-escalate the situation? If AB-392 becomes law, that’s something that would be considered. The Napa County District Attorney has not yet made a decision on this incident.

Expecting the best, preparing for the worst

In 2015 the California Highway Patrol formed its Mental Illness Response Program and several members of the unit recently explained how they teach new officers to respond to encounters with disturbed individuals.

They do this by using a simulator. There's a large screen up against the wall, some fake weapons holstered in a toolbelt and a nearby computer that controls it all.

California Highway Patrol Officer and CIT Instructor Richard Anglesey and his colleagues designed the scenarios used in the simulator based on real situations an officer might encounter and designed it so that there are numerous ways the encounter could go instead of the typical shoot or don't shoot seen often in these practice simulators.

Anglesey said that his team did this so that officers would get to practice communicating and building rapport with the people they come into contact with.

Anglesey demonstrated how one of these scenarios might go:

While on patrol Anglesey notices a reckless driver nearby, swerving over the solid-double line and kicking up dirt on the side of the road. It's daylight still in the video.

He pulls the vehicle over and approaches.

"Hi, I'm Officer Anglesey, but you can call me Richard," he begins. "Do you know why I pulled you over?"

"Speeding? I'm sorry I'm in a rush. I'm on my way to work – I'm doing really good," the driver responds. "I just was offered a promotion."

He tells her that she was swerving and asked if she was using any drugs or alcohol. Irritated, the woman said she wasn't.

"OK, well, are you on any medication for anything? I noticed that you're speaking quickly and were driving erratically."

"Yea, I'm on medication, but I didn't take it today."

"OK, well, is there someone you can call to come pick you up and maybe take you to see your doctor? I can wait with you."

In another example scenario, someone makes a report of a woman carrying a red tank of gasoline while walking down the street. She tells the acting officer – this reporter – that she "has it all

planned out” and to leave her alone. I did what Anglesey told me to do. I had introduced myself, told her that I was there to help and that I could connect her to resources.

She poured the gasoline over her body and took out a long lighter.

With Anglesey’s guidance, I backed away behind the pretend police car, putting some distance between me and the woman. I was panicking.

“Deb, you have me worried now. Please, I know you’re having a hard time, but your kids need you. I know I can make my mom sad sometimes, but, at the end of the day, she is my mom and I need her.”

She dropped the gas can and the lighter and fell to her knees.

This is the way Anglesey wants it done. Put space between yourself and the subject, buy some time and build rapport by talking with them, try to find something to connect with them.

“Even if the only thing you can connect with them on is baseball, at least it’s something,” he said.

“We try to do everything we can to prevent a bad outcome, but, ultimately, we encourage ‘don’t rush in, take your time, slow it down,’” Anglesey said. “If they take the time away, that’s different, but you don’t be the one to run in there and escalate the situation.”

Although Napa Police officers have been trained to use the simulator at the Napa County Sheriff’s Office and have previously used an older version of the CHP’s, the department does not have its own simulator.

“The force options simulators have strengths and weaknesses, so we do more training with live role players,” Sgt. Jenny, who is also a CIT instructor, said. “Most of the force simulators simply provide officers with an opportunity to decide the level of force to use.”

The interactions that happen using the simulator, he said, can be clunky and detract from the overall objective.

“A big part of CIT is reading the responses from the subject you’re talking to,” Jenny said. “The simulators don’t do very well at capturing those nuances.”

It’s difficult to see nuance in the footage from Simas’ bodycam. It does not show the two connecting about baseball or skateboarding, but maybe there was no time.

Abstract:

In an effort to curb the frequency and number of fatal officer-involved-shootings, California has passed a new bill that changes what makes the use of deadly force “justifiable.” Before this bill was passed, though, Napa Police had already increased its training requirements to include more crisis intervention and de-escalation tactics.

This increased training was a requirement of a settlement made in connection to a lawsuit against the City of Napa following the fatal shooting of a mentally ill man in 2010. In the eight years since Richard Poccia’s death, Napa Police have been involved in six fatal shootings, five of which were determined to be “reasonable and justifiable.” With the passing of this new bill, AB-392, what goes into making this decision has changed.

The department’s latest fatal shooting, which occurred in December 2018, is still under review, but, because of AB-392, the threshold to deem it “justifiable” is higher. This shooting, also, was of a man with a history of mental illness.

In this story, I go back into the history of Crisis Intervention Team (CIT) training in Napa, California, and bring the reader up-to-date on the known facts of the latest case. In speaking with police officers, experts and the community, I also explore whether or not this training has made an impact locally.

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