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Suicide By Cop

Contents

1. Introduction
 2. Suicide By Cop
 3. Some Relevant References & Resources
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1. Introduction.

The "Suicide By Cop" referred to and discussed in this article is not the suicide of police officers themselves. (See the references at the end for a link to a prior Monthly Law Journal article which did discuss such suicides). Rather, it is instances in which offenders and/or mentally disturbed persons may intentionally or recklessly provoke situations in which they seek to compel police officers to use deadly force against them. In other words, committing or attempting to commit suicide by having police kill them.

The term has become popularized in recent years, and indeed, in at least one case discussed below, the decedent reportedly yelled "Suicide by cop!" while throwing a knife at officers before they shot and killed him.

The phenomenon is troubling in a variety of ways, and officers involved in such shootings have often found it emotionally disturbing and traumatic to themselves. The estates of persons shot and killed in such incidents have filed both federal civil rights and state law negligence lawsuits in a number of instances, contending either that the use of deadly force was not actually justified under the circumstances, or that other tactics or more adequate training on dealing with suicidal or disturbed individuals may have resulted in a less violent result. In the following article, we will examine some of these cases.

The usual rules concerning the use of deadly force do apply---that is, the courts have upheld the right of police officers to use such force to respond to what they reasonably believe is an imminent threat of death or serious bodily injury posed by individuals despite the fact that the motivation of such persons may be suicidal. The ultimate question, however, may be what steps law enforcement agencies may take, in the areas of training

and policy, to prepare personnel to best grapple with the problem posed by confrontations with suicidal individuals, and thereby lessen the number of resulting deaths.

2. Suicide By Cop.

While it may not be an everyday occurrence, "suicide by cop" is not an extremely rare phenomenon which can be dismissed as insignificant. A 1998 report, for instance, sought to examine all shootings involving deputies of the Los Angeles County, California Sheriff's Department, and concluded that incidents that could be classified as "suicide-by-cop" amounted to approximately 11% of all deputy-involved shootings, and 13% of all deputy-involved justifiable homicides.

It defined suicide by cop as "an incident where a suicidal individual intentionally engages in life-threatening and criminal behavior with a lethal weapon or what appears to be a lethal weapon toward law enforcement officers or civilians specifically to provoke officers to shoot the suicidal individual in self-defense or to protect civilians." H. Range Huston, M.D., Diedre Anglin, M.D., et al, American College of Emergency Physicians, "Suicide By Cop," *Annals of Emergency Medicine* 32, no. 6 (December 1998).

That such shootings may result in substantial liability is clearly illustrated by one Florida case. In *Runnels v. City of Miami*, U.S. Dist. Ct. No. 00-2930 (S.D. Fla. 2002), the family of a man shot dead after he threw a knife at officers and screamed, "Suicide by cop!" received a \$1.25 million settlement in a lawsuit against the city in which it was alleged that a plastic gun was "planted at the scene of the shooting to justify it."

In this case, a Miami, Florida SWAT officer shot and killed a man after officers were summoned because of a call from neighbors reporting that he was screaming. The 25-year-old man was allegedly drunk and suicidal at the time following an argument with his girlfriend.

The man allegedly threw a knife at the officers and screamed "Suicide by cop!" When the officer shot and killed him shortly after that, he claimed that he observed a gun in the man's possession. During a subsequent investigation of the incident, a plastic gun was recovered, and pointed to as justification for the shooting.

The surviving family of the decedent filed a federal civil rights lawsuit against the city, and it was alleged that the plastic gun was "planted" at the scene. The shooting officer was subsequently indicted on criminal charges of shooting an unarmed man, and had previously been indicted on a similar charge.

If the decedent was intending to provoke his shooting by the officers when he threw the knife, the gist of the argument behind the lawsuit was whether he still

posed a viable threat to the officers or others after he threw the knife, and before he was shot.

In Murphy v. Bitsoih, 320 F.Supp.2d 1174 (D.N.M. 2004), a federal trial court ruled that officers who shot and killed a man who "demanded " that they kill him were not entitled to summary judgment on his estate's federal civil rights claim for excessive force. There was, the court reasoned, a factual dispute over whether he was armed with a knife at the time of the shooting, and whether he posed an immediate threat to them.

In this case, police received a 911 call from a man's girlfriend informing them that he was threatening suicide. Three officers were dispatched to the couple's home, along with a sergeant. They were informed over the radio that the man was armed with a knife and wanted to "commit suicide by cop."

The officers were armed with beanbag guns, and mace, as well as other weapons. When they walked towards the residence, they heard the man shouting statements such as, "Kill me, shoot me, I don't care." They saw him standing near his apartment behind a retaining wall, and he complied with their instructions to step out from behind the wall. Officers stated that they noticed that he was holding a 12-inch long butcher's knife in his right hand.

The officers claimed that the man, in response to commands that he put down the knife, did not comply, but rather demanded that they shoot him. Two of the officers claimed that the man began walking in an aggressive manner towards them, "flailing his arms" and holding the knife out at his side. The sergeant, however, characterized the man only as "taking steps" toward the officers, and did not indicate that he felt threatened by or scared of the man. The officers did not retreat or take cover.

According to the officers, one of them fired a beanbag round, which hit the man in the stomach, causing him to bend down "just a little bit." He then stood up again and continued toward the officers. A second beanbag round which struck the man on the chest had no effect. One of the officers, allegedly waiting to see the man take one more step after being shot with the second beanbag round, then fired at the man with his assault rifle. This officer fired two or three shots, and another officer fired three shots. Neither of them gave any warning prior to firing. After the man fell to the ground, an officer removed the knife the man allegedly was still holding, and another officer placed him in handcuffs. The man subsequently died.

In a federal civil rights lawsuit, the plaintiffs claimed that the decedent did not have a knife five minutes before the officers' arrival, and that the knife was planted by the police after they shot him. The man's girlfriend suggested that one of the officers entered her home to obtain a knife to plant on the decedent. The plaintiffs also claimed that, if the decedent were holding a knife, he was doing so in a non-threatening manner with the blade facing down, not aiming it at anyone.