Is history repeating itself with Ithaca's police-mental health consumer collision?

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On August 25th while filling out paperwork at the Citgo Station on West State Street, an Ithaca police officer was injured when a young man attacked him, grabbing the officer's service weapon and firing a shot that grazed the officer's leg. A back up officer shot the young man several times, and he later died of his injuries. The Tompkins County Grand Jury recently determined that the shooting of Shumway was justified.

It has been reported that the young man, Keith Shumway, 20, visited the Tompkins County Mental Health Clinic just prior to the event, but that he was told that he needed to come back for an appointment. Neighbors have stated their belief that Shumway was depressed and that his attack on the police officer was ‘suicide by cop.'

Gordon Terry who worked with Shumway at Loaves and Fishes described him at September's meeting of Common Council as a "very mild mannered guy, a very nice quiet person. And then some strange act of desperation drove him to do that," referring to Shumway's attack on a police officer that resulted in his death. Citing Shumway's visit to the clinic, Terry asked Council to work with the clinic to ensure that this situation does not happen again.

"I feel like the whole situation needs to be investigated," Diane Shumway, Keith Shumway's aunt, said in an interview prior to the conclusion of the official investigation "not just the police activity. The police weren't operating in a vacuum. And I feel like a big problem in the country is that the police and the law are on the frontlines of mental health care. And that is not their original job, that's not what they're trained for."

Though she did not want to go into much detail, Shumway said that her nephew had gone to the clinic the morning of the day he died for an appointment that he had only remembered the night before. Though she does not know why, he was told to come back, either on the 31st of the month or in 30 days. By the time he got home, she said, he was confused about what he was supposed to do. And she could not find out for him because of patient confidentiality.

"Wheels were turning at the mental health clinic, they just didn't turn fast enough," she said.

When Police Chief Ed Vallely spoke to the Administration Committee on Aug. 31, he reminded the Committee that the only officer to be killed in action was killed by a mentally ill person. Both Vallely and Alderman J.R. Clairborne spoke of the need to strengthen and build the relationship between the police department and the mental health community. Vallely said that the police department deals with situations involving mentally ill persons on a "daily basis," and made the clear distinction that police officers are not mental health professionals.

"This is a time bomb that's waiting to go off. This is something that has been happening," said Clairborne at September's meeting of Common Council, "This last fatality makes it twice now in our community that our police department has had to take the life of someone in our community suffering from a mental health concern. In the first one, the community lost someone in the police department and the community lost someone. In this last one we lost a person. We did not lose an officer, but we have two officers who are gravely injured. I would say gravely injured in a psychological aspect."

The first incident that Clairborne referred to was a mental health consumer and police officer collision that occurred in 1996, which Clairborne reported on for the Ithaca Journal.

On Nov. 17, 1996, Inspector Michael Padula responded to a barricade call along with other officers. According to the Ithaca Police Department, Padula was "attempting to talk an emotionally disturbed woman, who had barricaded herself in her bathroom." The woman, Deborah Stagg, exited the bathroom unexpectedly and fatally stabbed Padula. Padula was the first officer of the Ithaca Police Department to be killed in the line of duty. Stagg was fatally shot by another officer.

It was later revealed that Deborah Stagg had a history of mental illness and hospitalization, and that she had not been on her medication, or receiving treatment, for the month prior her death.

The event occurred before the law Court-ordered Assisted Outpatient Treatment, commonly referred to as Kendra's Law was enacted. Kendra's Law makes it possible for a person with mental illness to be court-ordered to receive AOT if it is found that he or she has a history of non-compliance with treatment and are unlikely to survive safely in the community- if he or she is a danger to him/herself or others.

In the weeks following the tragedy, the question arose of whether the event could have been prevented by a 24-hour mental health team that responds to crisis situations along-side police. In an article dated two days after the deaths the Tompkins County Mental Health Commissioner Anthony DeLuca (not to be confused with the late commissioner Bob De Luca) stated that he would like to see the creation of a crisis team that accompanied police on mental health related calls, writing "Things happen on Friday night, on the weekends."

On Dec. 5, 1996, Jean Walters, the founder of the National Alliance for Mental Illness Finger Lakes chapter wrote, "I believe that future tragedies of this magnitude can be avoided, but to accomplish it we as a society must be willing to allow the most seriously mentally ill people much easier access to psychiatric hospitalization and treatment and then mandatory involuntary outpatient commitments to treatment for those few people with mental illness who are too ill to realize how ill they are. I believe that people with major mental illnesses have a right to be treated when they are too ill to seek help for themselves. To continue this policy of not mandating treatment for the most seriously and persistently mentally ill because it is a violation of the mentally ill person's rights is a travesty of monumental proportions."

The Padula family ended up suing Tompkins County for negligence, accusing the county of being responsible for both deaths in their failure to ensure Stagg was receiving treatment. The lawsuit went on for years, with the family eventually losing the case. But, said Terry Garahan who was a social worker for the Mental Health Clinic at the time, if Kendra's Law had existed at the time, they would have won.

Both Garahan and Beau Saul, who was an officer with the Ithaca Police Department at the time, recognized that something had be done to prevent similar crisis situations from occurring. They saw that Stagg had multiple contacts with law enforcement prior to the event, and decided that they would start by going through all the calls and reports that the police department received that could be mental health calls. These calls, they explained, could fall under petit larceny, noise complaints, or drunken disorderly conduct.

Each day they would review the police reports, which are public records, from the previous 24 hours, keeping an eye out for possible mental health issues. They then prioritized people that they knew from previous reports and went out to make contact.

Working with - and getting to know - the consumers who had repeated contact with law enforcement gave Garahan and Saul the opportunity to try different solutions in helping them.

"We had the luxury of having time," said Saul, "You know the poor cop on the street at five in the morning- first of all, nothing else is open, so as far as problem-oriented policing you're limited. It's us and the State Diner and the ER. And you know it doesn't really work.

They're driven by the radio- they have to go to the next call, the next call, the next call. So we sort of had some luxury to try solutions, try the next one, and work it."

Garahan and Saul said that though the police department was cynical at first, when it became apparent that the daily calls they once had about repeat mental health consumers were dissipating due to efforts of the social worker-cop partnership, they immediately embraced and supported the work being done.

Saul and Garahan also involved the criminal justice system working alongside Judge Judith Rossiter in particular to make use of Kendra's Law and offering mandatory treatment as choice to mental health consumers who were facing jail time.

"And you know all within the bounds of legality and confidentiality," emphasized Garahan, "As a social worker of New York State if I violate confidentiality, I lose my license which means I can't work. So I was always very careful about the limits of my confidentiality. So Beau and I could have conversations, and we'd have euphemistic conversations about if a person does this... because he understood the nature of the burden that I had. And I understood the nature of the burden that he had, which had to do with the fact that he carries a gun. He's making decisions that are life and death decisions."

"We used to view that if we had a call out for a person- we almost viewed that as a failure," said Saul on when they received a crisis call, "Why didn't we get this before? Why didn't we talk to this person before? Why did this person feel the need to do this if he or she was in our system? That was a failure. But we still set up for it."

They set up for it by creating the 24 hour crisis team that Anthony DeLuca had hoped for just days after the Padula-Stagg deaths. They pushed to get FBI hostage negotiation training for members of the force as well as Garahan and other social workers in creation of the Critical Incident Negotiations Team. The team was made up of members from the mental health clinic, the county sheriff, and the campus police from both Cornell and IC. It responds to crisis calls involving mentally or emotionally disturbed persons. There are currently 12 members on the team.

A SWAT team was also started, which currently has 19 members. Both units respond to critical incident calls.

The goal with all of the work they did was to create a system that used "inclusionary criteria," allowing them to respond with a ‘yes' to the mental health community with the hope that it would prevent crisis situations from occurring by steering away from a strictly reactive approach to the mental health consumers and community. They felt themselves working against what they referred to as an exclusionary, nine-to-five mental health care, likening it to an insurance company whose first response is ‘no':

"The first thing is ‘no' it's not covered," said Saul, "you find out it is, but you've got to go through a lot of steps. How many people drop off by the time they get to the ‘yes' guy. That's what we're doing with lives?"

The work done on what they called "Resolve-EDP" was nationally recognized. The New York Times wrote an article on the partnership in 2000, and Garahan and Saul were interviewed for a segment on 60 Minutes with Dan Rather.

Saul retired from the police force six years ago and is now the Director of Public Safety at Tompkins Cortland Community College. Garahan left the Mental Health Clinic a year later and is now a professor of sociology at Ithaca College. According to them "Resolve-E.D.P.", was walked away from by mental health administrators once they had both retired. The discontinuation of the program came as a confusing blow given the huge support and cooperation of the police department.

"I was shocked, and I think Beau was, that within six months or a year of our working together how fully engaged law enforcement was," said Garahan, "They fully engaged in this process, because they saw the benefits to themselves, to the individuals they were trying to help, and to the community. And that's the part that is so distressing and concerning to me that human service folks who you would imagine would be open to that, the minute, I gave three months notice to my leaving, the minute I gave my resignation, Mr. [Bob] De Luca walked away from the program for whatever reasons he had, just walked away from it. And you know it was easily institutionalized and could

have become part of what was going on."

Both Garahan and Saul said there were people that had worked with them on the day-to-day interactions and who were willing to step in first when Saul retired and then when Garahan prepared to leave.

"Who dropped the ball?" said Saul, "Some guy in an office from nine to five. It's inexcusable. Whoever it is... Somebody made sure this wasn't going on, and it's not the practitioner. It's not the young lady at mental health that I call in my capacity at TC3 that helps us out occasionally... It's somebody else. Somebody made sure this cooperation collapsed. This cooperation, collaboration whatever, fell through."

When asked why Resolve-E.D.P. did not continue, Linda Riley, a clinic supervisor and head of forensics at the Mental Health Clinic stated simply, "Terry and Beau left."

Vallely stated in an interview that he believed that Resolve-EDP was still being done, stating that "There is prevention ongoing."

Resolve E.D.P., said Riley, was a hybrid of the program at the Mental Health Clinic called Emergency Outreach Services which responds to calls made in the community of a mental health concern and is the Clinic's closest link to working with law enforcement. "It [Resolve-EDP] wasn't that different other than Beau and Terry went into the community a lot," said Riley.

EOS operates during business hours and along with general intake serves as the primary crisis link at the Mental Health Clinic. Riley and two other social workers are trained hostage negotiators and part of the Critical Incident Negotiations Team that operates 24-7.

"We can only do what we are aware of," said Riley when asked if there was any effort on prevention. "If we're not aware of it there's no prevention."

Vallely echoed the statement, asking how the police could prevent an event that they do not know is going to happen.

The primary mission and mandate of the Mental Health Clinic is to serve anyone regardless of income residing in Tompkins County.

"We have a pretty large functioning within the community," said Riley.

As well as providing differing levels of treatment and therapy, they are also the only recognized source by the courts for the domestic and sex offender treatment program.

Family and Children's Services and the private therapists are the other primary options for mental health therapies, said Riley.

Sometimes law enforcement will contact them if they have gotten repeat calls about a person, said Riley, and ask the clinic to go out and do an assessment. Not every EOS call results in hospitalization, but when it is determined that a person needs to be transported to the hospital based on the criteria that the consumer is at risk of doing serious harm to him/herself or others, once the person is brought to the hospital it is the hospital staff who decide whether the consumer is admitted.

When asked if the Ithaca Police Department continued to work on prevention of mental health crises, Investigator Mike Gray, who is a member of CINT, immediately and emphatically said, "Absolutely, absolutely." He confirmed that EOS often reaches out to the Police Department.

"Resolve-EDP as it was originally formulated is not in place," said Gray, "However we do have specific officers that work hand in hand with the county mental health personnel to do some outreach to mental health consumers to make sure that if we get information that somebody is in crisis that they can be addressed and hopefully guided back on the path of getting whatever treatment, and whatever help, they need to keep them a functioning part of our community."

According to both Gray and Sgt. Deb Lawrence - one of the officers that is familiar with mental health calls and is a member of the CINT team, when officers deal with members of the community who appear to be having a mental health issues, they will set the record aside in a designated box, protecting the identities of the consumers or persons, will contact the Mental Health Clinic. Clinic personnel also stop by two to three times a week, said Lawrence.

Everything for us, said Lawrence of the Mental Health Clinic, goes through mental health. Anything outside of the Monday through Friday service at the clinic and you're at the whim of the hospital, she said.

"If there's a follow up required," said Gray, "they'll either do it on their own especially if it's one of their clients or they'll do it with the company of a police officer, not so much because there's been a crime committed, but as a preventative measure. If somebody's starting to head down a road of repeat behavior that would be called into question then we'll certainly involve mental health and go do what we can to steer the person back on the right track."

All three members of the Ithaca Police Department stated that the relationship between the Mental Health Clinic and the police department is very strong.

The difference from Resolve-EDP, said Gray, is that Garahan and Saul went into the community as a team to visit people that may have been involved in a situation with the police (even if it did not lead to an arrest or drastic police intervention), to make sure the person was on the right track and that there "wasn't going to be repeat minor incidents or an escalation into something worse."

Similar to the Mental Health Clinic, once officers bring a mental health consumer to the hospital if it is deemed that he or she is a danger to him/herself or others, it is up to the hospital to determine the next steps. And unless a patient is under arrest when they are brought in, the police are not notified when someone they brought in to the hospital is discharged because of patient confidentiality.

"We deal with mental health issues probably on a daily basis, and they're sometimes very, very frustrating," said Vallely at August's Administration Committee Meeting, "You take people, say, to the hospital because you believe there's a mental health issue, and they seem to be released very quickly. But we're not mental health professionals. We can only make a decision based on what's happening, and we have to rely on mental health professionals to make the best decisions."

When asked about the discussion of more support for the police department that took place at the meeting of the Administration Committee, he referred again to the daily interaction between the police and mental health consumers and the reliance on the hospital, "Sometimes people seem to be released quickly, but that's certainly not a skill set that the police have to determine- so in that regard it might be nice to have more support if you will, but I don't know how anybody could provide that because oftentimes those issues happen 24 hours a day 7 days a week. So it'd be very difficult for another agency that's not 24/7 to respond immediately."

The hospital was in the news in 2009 when it was reported that Ian Butler, a young man who murdered his mother in Cayuga Heights, had gone to Cayuga Medical Center with his mother seeking help just 12 hours before killing her, and was not admitted. A malpractice suit has been filed against the hospital related to the event.

Mary Ann Walters-Sokol and Anne Sokol, who knew Keith Shumway as a neighbor and hired him to do odd jobs around their yard, have both worked in the mental health community in different capacities. They are familiar with the hurdles mental health consumers and their

families face in getting the care they need.

"Keith was no different than many people in Ithaca," said Walters-Sokol.

Walters-Sokol was present when police were called by a concerned neighbor regarding Keith Shumway's behavior three and a half weeks prior to his death. They said the police were very good with him, joking and friendly despite his more hostile reactions. Walters-Sokol told the officers that Shumway had mental health issues; the officers brought Shumway to the ER.

Diane Shumway consulted with hospital officials to give them a full picture of her nephew's condition and issues. But despite her belief, and indications that hospital staff gave her, that he should be admitted for 72- hour observation because he was a danger to himself or others, he was released from the ER.

Sokol, who worked as a nurse in the psychiatric ward of Cayuga Medical Center, said that nurses called "evaluators" are the members of staff that first evaluate mental health consumers that come into the ER. According to Sokol after they evaluate the patient they call the doctor with their evaluation, who then decides whether or not the patient is admitted into the psychiatric unit. At night, the doctor that is called for an admission decision "is at home in bed," said Sokol.

According to Dr. David Evelyn, Vice President of Medical Affairs at Cayuga Medical Center, and President and CEO Dr. Rob Mackenzie, when a person with mental health concerns comes into the ER by ambulance or police transport, mental health staff is notified. First the patient is evaluated for potential medical conditions, followed by a mental health evaluation conducted by the designated mental health evaluator, an RN. The RN then speaks with the psychiatrist who makes the decision regarding admission.

If someone walks into the ER of his or her own volition, a triage nurse does an assessment that includes a standard lethality assessment tool- questions like "Do you feel safe?" If the assessment triggers a mental health evaluation, then the mental health evaluator is called and the above process commences.

Evelyn said that if it is determined that a patient needs to be admitted for a 72 hold, the psychiatrist is supposed to do the admission. So if they are at home, they would be required to come in to do the admission.

But, said Dr. Mackenzie, if it is very clear that someone needs to be admitted, the psychiatrist may come in the next morning instead.

For a patient to be held for more than 72 hours, two psychiatrists (called a 2PC) must sign off on it.

"I think it's very important that the families are involved," said Jean Walters of the evaluation and admission process in an interview, "the parent, or the significant other, or the spouse, or the adult child can say ‘Look, this person needs help and I want them to get help.'"

It is the family, agreed Susan Larkin, a volunteer with NAMI, who sees both sides.

Both Mackenzie and Evelyn agreed that they try to get corroborating information from family members especially when it comes to mental health evaluation.

"[It's] sometimes more important to get corroborating information from a family member for a person who may have a mental condition than it is with someone with appendicitis," said Mackenzie, "because in some cases we aren't able to verify whether the information is reliable from the patient themself in that situation."

The decision of whether or not someone is admitted is a judgment call for the hospital, said Larkin, with the patient having full rights to refuse or discontinue treatment at any point if they are in a state that they are not a danger to self or others.

Once it is determined that a person who came in voluntarily is a danger to others or themselves, the patient may be retained - becoming an involuntary patient. The psychiatrist has 72 hours to request a court order to hold keep the patient in the hospital.

"I know people who go in, take medication for a couple days, say ‘Certainly I'm going to stay on them, I'm fine', and present well, throw it away in the driveway," said Larkin.

"They have to be a threat to themselves or a threat to other people," said Evelyn, regarding admitting patients for a 72 hour hold, "or to be so ill with their mental illness that they psychiatrist who is evaluating them doesn't feel that the can be safely discharged to home because they won't take their medications or they won't follow up or they won't do what's needs to be done."

When someone is discharged from the hospital's behavioral services, plans for continuing treatment in the community are developed by the patient's treatment team. But planning for patients who are not admitted after their mental health evaluation is less extensive.

"Generally because in the evaluation of that ER patient it's determined that the reason it is safe for them to be discharged is that they do have a support network already," explained Mackenzie.

"Frequently they're already hooked up into community programs, and it's just letting those people know they came into the ER for an evaluation," said Evelyn.

There is an agreement, they said, between the hospital and Tompkins County Mental Health, where the clinic keeps some slots available for patients that are discharged from the ER or Behavioral Services Unit.

Another problem in the admission process is that there are usually other issues that go along with mental health problems. Sokol said often that if a patient who came in for mental health reasons was also on drugs that they would not be admitted to the ward.

Evelyn explained that when someone comes into the ER that is under the influence of alcohol or illegal substance, the evaluation may be delayed until it can be determined that the patient is ready for the evaluation. The same is the case if the patient must be restrained and/sedated in four point restraints- a measure which has its own set of regulations and that the hospital has been recognized for using as little as possible.

"Clearly if someone needs four-point restraints," said Evelyn, "they're going to be admitted for something."

Mental health evaluations take a long time, he said, and usually more than one takes place every day in the ER.

The problem resulting from the connection between mental health and substance abuse is not limited to the hospital. Diane Shumway, who has also worked within the mental health community, observed that mental illness often goes hand-in-hand with substance abuse, with consumers who are not in treatment self-medicating with drugs and/or alcohol. She has seen that consumer who is abusing substances will bounce between programs for substance abuse and mental health, being told that each issue has to be treated before the other.

Another problem, Shumway observed, especially with young consumers who are not in treatment like her nephew Keith, is what she called a moving target problem - meaning a person with a mental health problem may decide on one day that they want help and treatment, but that by the time their appointment comes around, they may no longer want to keep it or feel they need help. The key word for receiving mental health services, she said, is compliance. And what person, she asked, who on top of being young has a mental health problem, is going to be compliant on their own?

Her experience is also that of the service agencies in Ithaca, including the Mental Health Alliance, Department of Social Services, CARS,

Family and Children Services, and the Mental Health Clinic, there is no service that focuses specifically on helping the young adults who are in their late teens to late 20's with mental illness. It is an age group, she noted, that while they may legally be able to make medical decisions for themselves, they are not equipped to face the tangle of system, especially if mental illness is involved, and most likely will not seek treatment on their own. This is a huge problem for young adults who are on their own and may not have the support, financial or emotionally, to get the help they need, she said.

The situation usually is that you don't know the holes in a system until someone falls through them, said Rick Alvord of the Learning Web and Youth Outreach Program, who knew and worked with Keith.

Both Larkin and Walters at NAMI and Inv. Gray agreed that constant education on mental illness and the services available is a large part of improving the system. For family members who come to support groups, Larkin and Walters try to change the mentality for families that to call the police for help is going to hurt their "person." They emphasize that calling the police does not mean that they have failed their person, or that their person is going to be arrested and taken away, but rather that the police are there to help and assess the situations as well.

On their crisis file (a list of contacts for families in the event of a mental health crisis), Gray and the CINT team are listed. Larkin said she encourages family members to call Gray and talk to him if they are worried about their family member, saying that the he is always willing to talk and see what action should be taken to help the family member.

"We would rather respond a hundred times to find out there isn't a problem than once to find out that there is," said Gray over the phone.

Gray also said that there is a push within the police department to get more of the officers trained in crisis and hostage negotiation, saying that not only are the verbal communication skills that are taught valuable to daily police work, but that a lot of the lessons are "interchangeable with dealing with someone with mental health crisis."

In an interview, Vallely confirmed that fighting against budget constraints, the department has been trying to send more members of the patrol division for hostage/crisis negotiation training because they are usually the first uniforms on the scene.

Diane Shumway, while expressing tremendous grief on the loss of her nephew, has not placed blame on anyone, "All I know is that he shouldn't be dead."

Losing Keith has made clear to her what kind of service should exist.

While the different services do communicate with each other, she emphasized, they are limited by their own mandates and regulations.

Evelyn said the biggest problem is the lack of resources devoted to mental health in the state and the community.

"Lack of resources," he said, "and I don't want say that in the sense that there aren't these agencies and they aren't doing their job - they just don't have enough."

He explained that in the late '80s, the state decided to shut down the big mental health hospitals and put mental health services in the community, but that they didn't put any money into the communities. And since then the need for services has spiked.

"Communities have been scrambling ever since to try and provide these services," he said, "It was never good."

"I think we need some sort of program that is not specifically mental health, a program that would have help come to where people are in their own head, as well as physically," said Shumway.

This would include having counselors that would go out on the street and talk to people who seem to need help, because they are panhandling or acting strange or following up on a police report, she explained.

A multidisciplinary program that would include the police, mental health, drug and alcohol treatment, Department of Social Services and probation where you wouldn't have to make an appointment and come back would be the ideal in Shumway's mind.

You basically need a street agency that doesn't have to follow the rules, said Shumway, but if you're going to get government funding, you've got to follow the rules.

In addition to meeting people where they needed to be met instead of waiting for things to get so bad that they are forced into treatment by family or the law, another service that she would want part of the service would be laundry. She had first-hand knowledge of the need for clean laundry that people who are drifting or homeless in Ithaca have when Keith began bringing people home so they could shower and do laundry.

"Keith had a good heart," said Shumway, "I actually made a rule ‘you cannot bring anyone back to my apartment.' So he just brought their laundry."

She laughed, "He'd be up all night doing load after load of laundry. That's a big need that isn't addressed. Getting their laundry done."