

July 29, 2020

Joint Committee On Transparent Policing and Use of Force Reform
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We write as members of the NATIONAL ALLIANCE ON MENTAL ILLNESS of Southern Oregon. We are persons and loved ones of persons with mental illness. Some of us or our family members have experienced multiple police contacts, arrests, and periods in jail and prison as a direct result of mental illness.

We want to add to our previous testimony of July 24 to your committee and comment on the Legislative Concepts brought by your committee.

We understand that all cultures and racial groups include people with mental illness. And people with mental illness are often extremely vulnerable in the presence of police. For example, a man with schizophrenia was killed by Eagle Point police two years ago after an officer saw him cross a street against a light and followed him into a restaurant bathroom to educate him on the danger of jaywalking.

The man's name was Matthew Graves. He was 35 and suffered from schizophrenia. He wasn't into a discussion that evening. He wanted a hamburger. So he swore at the officer and walked away. The officer followed him into the restroom and found him drying his hands. According to the Ashland Tidings, "Graves was making statements that [officer] Cardenas should have recognized as consistent with mental illness." Eagle Point officers are trained yearly in crisis intervention. But, "rather than try to de-escalate the situation and get Graves to calm down, Cardenas shouted commands at him, demanding that he get on the ground."

Graves was shot twice in the back as he lay on the floor after failing to respond to the officer's commands. Cardenas and his backup, officer Davis, believed that Graves had a gun. They later learned that what they saw on the bathroom floor was Cardenas' own Taser which he had dropped after firing it at Graves to little effect. Graves never had a gun.

The Tidings reported, "The grand jury that reviewed the shooting considered only the final *two minutes* of the entire incident in deciding whether to bring charges against the officers. Based only on that, it is understandable that the grand jurors might find the officers' actions justified." Still the jury's finding was not unanimous—it was 5-2.

The newspaper editorialized, “Considering only the end of the confrontation . . . *ignored all the poor decisions that led up to that point.* . . . But this case should never have reached that point. The officers were never in danger. Graves was unarmed. Cardenas had no business pursuing a mentally ill jaywalker into a public restroom and aggressively confronting him.”

Graves’ parents filed a wrongful death suit against the police department that resulted in a \$4.5 million settlement. According to their attorneys, the parents hope that “police officers throughout the United States will become better trained in how to interact with the mentally ill and to know how to use de-escalation techniques. They hope the lawsuit will help prevent another tragedy like Matthew’s death.”

The family will use the settlement to make donations in their son’s name to local homeless and mental health programs.

We at NAMI grieve with the Graves family. We, also, want to prevent another such tragedy from ever happening again. That is why we address you today.

A. Defining police misconduct

We affirm the need to stop the harassment and killing of people of color by legislating that racial discrimination is a form of misconduct for which individual officers and law enforcement as a system must be held responsible. We also note that mental illness occurs in all races and cultures, seriously impacting [19.1%](#) of U.S. adults and [16.5%](#) of U.S. youth aged 6-17 (<https://www.nami.org/mhstats>).

Mental illness can render people like Matthew Graves vulnerable to badly handled police contacts. We therefore propose that any legal definitions of police misconduct should include reference to the mistreatment of people with mental illness.

Both LC 744 and LC 746 offer examples of police misconduct that should lead to holding offenders legally, or even criminally, accountable. Can your committee insert the concept of *the mistreatment of people with mental illness by police* into those descriptions of unjustified or excessive force, sexual harassment, sexual assault, assault, and discrimination?

Further, LC 746 provides a new opportunity to define the meaning of misconduct through the establishment of a Commission on Statewide Law Enforcement Standards of Conduct and Discipline which will be required to set standards for police behavior. Can you include an instruction for the Commission to consider setting a uniform standard for de-escalating and

avoiding use of force against people with mental illness? If such a standard already existed, perhaps Matthew Graves and George Floyd might still be alive.

To accomplish that work, could you specify that mental health advocates be appointed as one of the community-based organizations that will represent the interests of historically marginalized communities on the new Commission?

B. Officer training

NAMI partners with law enforcement to provide Crisis Intervention Training (CIT) in Southern Oregon as well as in other parts of the state. These trainings should certainly continue for all law enforcement agencies.

Officers must be able to recognize symptoms of mental illness when interacting with the public. Those symptoms frequently include anxiety which can escalate in response to the shouted commands of police. The ability to recognize those symptoms is essential for people's safety. So is competency in de-escalation. These are necessary policing skills that should fit into *uniform standards of conduct*.

Police contact with people suffering from mental illness is not a rare occurrence. We've been told by officers even in small Oregon cities that they encounter mentally ill people from 1 to 6 times *per shift*. Police must be held accountable for safe interactions with the most vulnerable members of the community—not only for the last two minutes before a life is lost, but from the very first moment of the contact.

C. Replacing police with more appropriate responders

While LC 743 regarding police uniforms provides assurances that officers will be identifiable by the public, changing what police wear is not enough. NAMI continues to press hard to entirely remove law enforcement as the community's default responders. Law enforcement is simply not suited to respond to what are essentially health care needs. *It is absolutely necessary that the Legislature address this issue more earnestly.*

The officer in Eagle Point who met up with Matthew Graves had received Crisis Intervention Training with his department and yet he failed to recognize Graves' mental illness. He failed to employ de-escalation methods while interacting with Graves. Instead, he did the opposite, trapping Graves in a restroom with his gun in his hand while shouting commands at him.

Communities need alternative responses to people in need. How about the example set by CAHOOTS (Crisis Assistance Helping Out On The Streets) in Eugene/Springfield, non-police mobile crisis teams with medically-certified and behavioral health-trained workers onboard. Cahoots staff is successful because they receive, not 40 hours of CIT training in a classroom, but *several hundreds of hours* of in-house and on-the-street training. They are not police. They carry no weapons.

From the CAHOOTS website, we learn that “The CAHOOTS teams deal with a wide range of mental health-related crises, including conflict resolution, welfare checks, substance abuse, suicide threats, and more, relying on trauma-informed de-escalation and harm reduction techniques. . . . A November 2016 study published in the American Journal of Preventative Medicine estimated that *20% to 50% of fatal encounters with law enforcement involved an individual with a mental illness*. The CAHOOTS model demonstrates that these fatal encounters are not inevitable. Last year, out of a total of roughly 24,000 CAHOOTS calls, police backup was requested only 150 times.” <https://whitebirdclinic.org/what-is-cahoots/>

What if we could spread the CAHOOTS model, adapted to the needs of local communities and counties, around the state? Portland is giving it a try under the leadership of city councilor Jo Ann Hardesty. She brought 50 some stakeholders together to explore and plan for their new program. They are starting small with one pilot team and gradually expanding to serve the needs of different neighborhoods in the city.

NAMI and other groups are advocating strongly for a CAHOOTS in Jackson County in order to meet the needs of people who don't receive appropriate services when met with a police response. We could really use help from the state for funding, certainly, but also for legislation or programs that would support the development of a local non-police mobile crisis program.

We need to know what the best-practices for such a program are. We need to facilitate partnerships between law enforcement, community justice, public health departments, CCOs and private health care organizations as well as a broad variety of human service providers. We need opportunities for training medical and mental health responders, law enforcement, dispatchers, and stakeholders. And we need an infrastructure of community, not government, oversight for the program that we can plug into.

We are very grateful that your committee is working so diligently on fixing the problems that lead to tragedies arising from systemic injustice as it pertains to policing. Thank you. And thank you for considering our proposals.

Sincerely,

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Jackson County, Oregon