

Posted 8/5/11

HOMELESS, MENTALLY ILL, DEAD

Officers may have beat a troubled man to death. But we all share in the blame.

By Julius (Jay) Wachtel. Common sense would dictate that a 37-year old homeless schizophrenic who is off his meds and has an assaultive history shouldn't be on the streets. But common sense doesn't count when it comes to public policy. Indeed, vagrants with mental health issues have become such a commonplace aspect of city life that we seldom give them much thought. That is, until one of them dies at the hands of the police.

We've repeatedly blogged about such things (see "Related Posts," below.) This time the dead guy is 37-year old [Kelly Thomas](#). He was from Fullerton, California, a solid middle-class community in conservative Orange County, where his father once served as a deputy sheriff. Described as a "bright, loving kid," Thomas was stricken with the dreaded disease in his early twenties. He then began amassing a string of arrests, the most serious resulting in a conviction for assault with a deadly weapon.

Thomas' nomadic lifestyle came to an abrupt end on the night of July 5, 2011. That's when he encountered two Fullerton police officers who were investigating a report that someone was breaking into parked cars. When they tried to look into his backpack he ran off.

[Deinstitutionalization](#), a movement that dates back to the 1950s, sought to revolutionize care of the mentally ill by treating them in community settings rather than isolated hospitals. In practice, however, the money saved by closing institutions proved far less than what was necessary to fund effective local models. Legions of mentally ill wound up homeless or in jail. And that's where things stand today.

States tried to close the gap. In 2004 California passed the Mental Health Services Act (MHSA,) levying a special tax on high-earners to pay for programs and clinics. But earlier this year, as the general fund sank hopelessly into the red, [a whopping \\$861 million of MHSA money](#) got siphoned off to pay for mandated services. [Mental health advocates screamed foul](#). Their complaints were mostly ignored. Really, it's hard to wield much influence when one's constituency spends much of its waking time digging through trash cans looking for its next meal.

It's not just a lack of funding. Deinstitutionalization emphasized the liberty interests of the mentally ill. Over time the "threat to oneself or others" standard became so strictly interpreted that, excepting sex offenders, involuntary commitment has largely become a thing of the past. For an example look no further than Thomas. [Off his meds for years](#), he was unwelcome at home, where his bizarre and threatening behavior – he once grabbed his mother by the neck and wouldn't let go – led his parents to call police. They got a restraining order and tried to get their son committed. But the law said no.

Legal constraints and scarce resources mean that lots of unstable characters wind up roaming the streets, whether they want to or not. Some who knew Thomas say that he was a "free spirit" and homeless "by choice." Maybe so. In any case, his unruliness, criminal history and reluctance to take meds made him an unappealing client for residential shelters and job-training programs, which have enough of a

problem as it is. So for nearly two decades Kelly Thomas was everyone's problem. Meaning, of course, no one's.

“There seems to be a general sense of outrage and fear.” That's how Fullerton city councilmember Bruce Whitaker described the reaction to Thomas' death. Now under investigation by the D.A. and, separately, the FBI, the tragic encounter has led to a blizzard of news articles, e-mails and blog posts, as well as a large (and by Fullerton standards, completely uncharacteristic) protest outside the city's normally placid police headquarters.

Six officers were ultimately involved. One was initially placed on paid leave, while the others remained on duty although not on patrol. As the outcry intensified – one councilmember went so far as to ask the chief to resign – the other five were also sent home. Presently the official line is that Thomas, who was reasonably thought to be prowling cars, put up a fierce struggle and officers responded appropriately. (Claims that one suffered broken bones have been amended to say he was bruised.) Bystanders, though, paint a dramatically different picture, of a bunch of aggressive cops who dragged a helpless man to the ground, slammed his head on the pavement, beat him with flashlights and repeatedly zapped him with a Taser.

Where the truth lies is presently impossible to say. Initial indications, though, aren't favorable for the cops. [A transit security video](#) captured distressed passengers conveying what they just saw to a bus driver. “The cops are kicking this poor guy over there. All these cops,” said one. “He's almost halfway dead, they killed him,” said another. Several witnesses took their own videos. As a stun gun clicks in the background one says, “they've Tased him five times already, that's enough!” Another calls police “Freaking ruthless...I don't know why they don't just put cuffs on him and call it a night, instead of hitting him.”

Thomas died five days later. Although the cause of death is as yet undetermined, his father released a photograph apparently taken as Thomas lay dying in a hospital bed. It's a grisly sight.

Police officers frequently deal with the homeless and mentally ill, and by all accounts resolve most encounters peacefully. Naturally, it's the others that draw public attention. In an episode last March, LAPD gang officers [shot and killed a young man](#) who was walking the streets late at night. Instead of stopping as ordered he approached the cops and made a move they interpreted as going for a gun. It turned out that the youth was unarmed. And autistic.

Most civilians voluntarily comply with police. However, those who are cognitively impaired don't realize that not following directions or, even worse, resisting can provoke a catastrophic response. It's for such reasons that police academies and progressive agencies offer specialized training for identifying and dealing with the mentally ill. It goes without saying that regular instruction in this area is crucial.

Still, in the uncertainty and confusion of the streets it's not always obvious when a citizen is “different.” Neither are all cops alike. Some rattle easily. Others may be quick to anger, or may not be willing to accept more than a smidgen of risk. Officers often interpret situations differently. When they patrol singly, as in Fullerton, coordinating their response is particularly challenging. Techniques such as “swarming” can minimize the amount of force that's needed to subdue an unruly person. But successfully applying such tactics in the hurly-burly of the real world calls for frequent hands-on training, probably much more than most departments provide.

A lawyer who works for police unions [has come out in the officers' defense and](#) rebutted the most inflammatory allegations; for example, that cops struck Thomas with flashlights. "Unfortunately," he said, "public perception of officers trying to control a combative, resistive suspect rarely conforms to those officers' training, experience, what those officers were experiencing at the time or reality. This seems to be a case in point."

On the other hand, an anonymous source told a local radio station that something far more sinister may have taken place. In an on-air interview, a self-described Fullerton PD insider said that police managers had each of the involved officers repeatedly rewrite their accounts of what happened, by implication, not to make them more accurate but less. He also spoke of a live video feed from the scene, visible at dispatch and the watch commander's office, that clearly depicts an officer striking Thomas with the butt of the Taser and drop-kicking him in the throat. On the next day that same cop supposedly bragged about delivering a beating. His comments weren't well received by other officers, who already shunned their colleague over past incidents of brutality.

If the caller's account is accurate, the good news is that there was no concerted effort to beat up Thomas. Only one or two cops may have gone overboard. That's consistent with our impression of an undisciplined, uncoordinated response, with each officer essentially acting as a Lone Ranger. The bad news is that officer reports may have been coordinated, thus enmeshing superiors as well. If there really was an attempt at a cover-up Fullerton PD may have a far more serious and deep-rooted problem than a couple out-of-control cops.