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**SUICIDES WHILE IN CUSTODY**

By Atty. Jack Collins, General Counsel

Once the police take a person into custody the department has assumed or has been given responsibility for the prisoner. The police, as a general rule, owe no duty to the world at large to protect them from harm. Once a person becomes a prisoner, however, a different set of rules applies. The place and conditions of confinement are under the control of the department. Having had his/her freedom taken away, the prisoner is not in a position to do things for him or herself.

Certainly the suicide of a person while in custody, whether in a cruiser or at the police station, raises issues of civil liability. The usual claim is that the police officer knew the person was suicidal, but took no steps to prevent the suicide. Simply failing to do enough is negligence. However, in civil rights liability cases the constitutional standard is deliberate indifference, not negligence. This requires a plaintiff to prove that the officers knew or should have known that there was a danger, yet they took no steps either to eliminate the danger or to protect the prisoner. This involves:

- (1) a knowing choice (conscious decision);
- (2) time to evaluate the choices available; and
- (3) an appreciation of the danger or risk.

Only near total neglect of a potentially suicidal prisoner will give rise to constitutional liability, but there may be responsibility under other tort theories, as well as disciplinary action against the officer.

Plaintiffs often make one or more of the following factual arguments in support of their claims:

- Prisoner needed medical treatment;
- Prisoner was intoxicated or under the influence of drugs;
- Failure to remove things from prisoner which he used to harm himself;
- Failure to monitor holding cells;
- Failure to pay attention to tell-tale conditions (despondent, depressed, talked of killing himself, etc.);
- Placed in unsafe area;
- Mixed with other prisoners;
- Failure to do screening;
- Failed to respond to problem;
- No procedures for suicide watches; or
- No training.

As discussed above, in suicide cases a plaintiff must show that officials unreasonably failed to recognize the danger and failed to prevent the suicide.<sup>1</sup> There is a difference, however, between simple negligence and deliberate indifference. In the following situations, there was no liability under section 1983 because the officers were not deliberately indifferent:<sup>2</sup>

- Failure to remove an arrested person's belt and shoe laces;<sup>3</sup>
- Failure to correct air vents which a prisoner used to hang himself and which had similarly been used by a previous prisoner;<sup>4</sup>
- Where neither officers nor paramedics had reason to believe that an arrested person faced a serious risk of death;<sup>5</sup>
- Failure to remove a drunk driver's belt where officers had no reason to believe that such individual would commit suicide;<sup>6</sup>
- Failing to get medical attention for drunk prisoner; and,
- Failing to follow standard half hour cell checks when no reason to suspect prisoner would commit suicide.<sup>7</sup>

## **RECOMMENDATIONS**

*Persons assigned to watch prisoners or detainees, as well as all supervisors, should be familiar with the department's policies and procedures on handling prisoners, providing medical attention and preventing suicides. These should be the topic of roll call and in-service training and should be reviewed periodically by counsel.*

*Check out MPI's on-line training, including suicide prevention for promoted officers. [www.mpitraining.com](http://www.mpitraining.com)*

*Following statutory requirements for "Q5" and prisoner monitoring is essential.*

*All persons responsible for the handling and care of prisoners should be trained in generally recognized profiles of suicidal prisoners. Special care is needed when a prisoner has a prior history of attempted suicide. Persons under the influence of drugs or alcohol also merit special attention, as do those with special needs.*

*A prisoner's behavior, clothing/appearance, statements, information from family members, as well as warnings or information from medical personnel, all require attention.*

*Follow the department's procedures for monitoring prisoners; they are there for a purpose. If an officer has any question or concern about how a prisoner is behaving or appears, a call to a supervisor is appropriate. Officers should be concerned that every person that comes into the police station leaves alive, no matter what kind of drunk or addict he or she may be, and no matter how regularly he or she is taken into custody.*

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<sup>1</sup> *Jones v. County of DuPage*, 700 F.Supp. 965 (N.D. Ill. 1988).

<sup>2</sup> *Bowen v. City of Manchester*, 894 F.Supp. 561 (D.N.H. 1991) *aff'd.*, 966 F.2d 13 (1st Cir. 1992).

<sup>3</sup> *Belcher v. Oliver*, 898 F.2d 32 (4th Cir. 1990).

<sup>4</sup> *Wayland v. City of Springdale*, 933 F.2d 668 (8th Cir. 1991).

<sup>5</sup> *Salazar v. City of Chicago*, 940 F.2d 233 (7th Cir. 1991).

<sup>6</sup> *Francis v. Pike County*, 708 F.Supp. 170 (S.D. Ohio 1988), *aff'd* 875 F.2d 863 (6th Cir. 1989).

<sup>7</sup> *Campodagli v. Wilson*, 180 Ill. App.3d 456, 356 N.E.2d 135, 129 Ill. Dec. 451, *cert. denied*, 493 U.S. 919 (1989).