

COSTA POLICE DEPARTMENT MEMORANDUM

November 9, 2005

TO: Chief John Hensley
FROM: Sgt. Myers
SUBJ: **Counsel Comments from Kathleen Eric**

Purpose:

The purpose of this report is to review and discuss the issues brought forward by Kathleen Eric at the City Counsel Meeting on November 1, 2005.

Background:

On 11-03-05, Captain Smith asked me to gather information and prepare a report on the issue raised by Kathleen Eric at the City Counsel meeting on November 1, 2005.

Per the City Counsel minutes, Kathleen Eric made the following comments.

“Reported that at 6:30 am on the morning of November 1st, a man that was unclad, tried to break into her house. She related that the police arrived and the intruder when questioned responded that he was praying and often came to the window at night to pray. After the police had taken the man away they advised Mrs. Eric that they had taken him to his sister’s who had indicated that he was bi-polar, was on medication, and that he lived across the street. She later requested a police report and was told that there was only a call history and there would be an incident report only if she had requested one. She questioned why the man was not held or placed under analysis, and why there was not an incident report made. “

Discussion:

Officers Langford and Reitz handled the incident. I first spoke with Officer Reitz, who told me the following:

On November 1, 2005 at 0630 hours he and Officer Langford responded to the report of a suspicious male at 1825 Placentia Avenue. When they arrived, they saw a male, identified as Victor Manuel Mendoza, naked, standing at the front door of the Eric's location. They were able to speak with Mendoza and found that he lived at (1780 Placentia Avenue #15). Mendoza was driven home by Officer Langford, where he was released to his sister. The sister stated that Mendoza was bi-polar and on medication.

On November 9, 2005, I spoke with Officer Langford who told me the following:

On November 1, 2005, he and Officer Reitz responded to a suspicious male call at 1825 Placentia Avenue. The male was naked and standing on the front door step of the location. When officers arrived, they saw a male, later identified as Mendoza, standing naked on the front door step of the Eric's location.

When questioned, Mendoza immediately struck officers as being dazed, confused and unresponsive. He was asked to get dressed. He told officers his pants were down the "block" and his shoes were in the dumpster.

Eric had told officers that Mendoza had knocked on the door, pressed buttons on the keypad entry, but made no other mention of Mendoza attempting entry into the location. Eric made no request to have Mendoza arrested. Officers saw no physical evidence of an attempted entry.

Based upon Mendoza's physical appearance and his dazed and confused demeanor, both officers believed that Mendoza was possibly mentally challenged and not a sexual deviant or predator. It appeared to both officers that Mendoza suffered from a mental disorder/behavioral issue. They had hoped to find a responsible family member to provide an explanation on Mendoza's behavior and a possible solution. Mendoza provided his home address to officers, and they opted to return him home.

Officers drove to 1780 Placentia Avenue #15, and made contact with Mendoza's sister. She told officers that Mendoza was diagnosed with Bi-Polar disorder and is on medication. She explained Mendoza's behavior at Eric's location as his reaction to his new medication. She added that this type of behavior has not occurred before.

Officers felt comfortable with the sister's level of responsibility to Mendoza. They trusted that she would get him back to his doctor for medication modification. They left Mendoza with the sister for family intervention.

While compiling this information, Sgt. Phillips told me he had contacted the Eric's on an unrelated deceased person call. The Eric's had told him they had been upset at the City Counsel meeting regarding a naked man on her doorstep. They wanted to know how a naked man could be on their doorstep. They did not mention being upset at the officers who responded or their course of conduct.

Policy and Procedures:

When officers respond to a suspicious male call, they need to be prepared for literally any type of situation. When they arrive and see a naked male, they need to first and foremost make sure the scene is quickly made safe for the public and officers as well as the subject. Once the scene is secured, officers need to use their investigative skill and experience to determine a solution. Factored into this solution is; Did a crime occur? Are victims willing to press charges? Suspect's actions and any other extenuating circumstances, such as age, mental condition, or being under the influence of a drug or alcohol.

As a matter of policy and procedures, Officers Langford and Reitz handled this incident properly and used good judgement and discretion. They arrived at the conclusion that Mendoza appeared to suffer from a mental disorder.

These officers also used sound judgement and discretion to release Mendoza to a family member. Officers would have had to reassess the situation had no family member been contacted or willing to assume responsibility for Mendoza. That reassessment would have included Welfare and Institutions Code 5150. Welfare and Institutions Code 5150 is defined as:

When any person, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, designated members of a mobile crisis team provided by Section 5651.7, or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation.

Such facility shall require an application in writing stating the circumstances under which the person's condition was called to the attention of the officer, member of the attending staff, or professional person, and stating that the officer, member of the attending staff, or professional person has probable cause to believe that the person is, as a result of mental disorder, a danger to others, or to himself or herself, or gravely disabled. If the probable cause is based on the statement of a person other than the officer, member of the attending staff, or professional person, such person shall be liable in a civil action for intentionally giving a statement that he or she knows to be false.

Mendoza did not rise to this level of commitment based upon Orange County Mental Health directions for voluntary committal.

Recommendations:

The answer on how to avoid these incidents is to have Bi-Polar patients responsibly take their medication. In the event they don't take their medication, for one reason or another, the responsibility falls on family, mental health social workers and law enforcement. In the absence of family, the patient may have a mental health social worker who can help with medication maintenance. When this fails, find suitable facilities to house the patient until their medication is balanced. Lastly is law enforcement. Law enforcement is trained to deal with mental disorders and seek out solutions that best serve the patient and the public. These solutions, generally speaking, do not involve arrests or criminal prosecution.

The Police Department cannot guarantee that this type of event will not repeat itself. In the event this incident reoccurs, law enforcement will have to reassess the situation in a case-by-case basis using Welfare and Institutions Code 5150 and the C.O.P.P.S. philosophy as a guide.

PHIL MYERS
SERGEANT