



CITY OF PHILADELPHIA

Police Department
HEADQUARTERS, FRANKLIN S
PHILADELPHIA, PENNSYLVANIA

JOHN F. TIMONEY
Commissioner

VIA U.S. MAIL

September 21, 2001

Jane Leslie Dalton, Chair
Police Advisory Commission
P.O. Box 147
Philadelphia, Pennsylvania 19105-0147

RE: Matter of William DeSilvis
Police Advisory Commission Complaint Number 98 0471

Dear Ms. Dalton:

The Philadelphia Police Department ("Department") is in receipt of the Police Advisory Commission's ("PAC") opinion regarding the above referenced matter. On August 13, 1998, Mr. William DeSilvis filed a complaint with PAC alleging physical abuse and inadequate medical care while he was in police custody on June 4 and 5, 1998. More specifically, Mr. DeSilvis complained that unknown police officers physically abused him by stabbing him in his hand with a pen and pushing him against an emergency patrol wagon ("EPW") causing him to scrape his left leg. The physical abuse allegedly occurred after a visit to the hospital. In addition, Mr. DeSilvis alleged that he was a victim of lack of service from unknown police officers in the Second Police District cell room. He alleged that the police failed to assure that he received all of the insulin injections that were essential to his health subsequent to his arrest. Mr. DeSilvis stated that his psychologist, Dr. Mulligan, suggested that he file a complaint about this incident. Mr. DeSilvis stated he sought psychological treatment after unknown friends stated he was acting aggressive. Mr. DeSilvis stated that his behavior stemmed from his arrest via warrant for forgery on June 4, 1998.

On October 22, 1998, a complaint against police was received at the Internal Affairs Division ("I.A.D") by Lieutenant Benjamin Walton (badge number 384) via PAC and I.A.D. investigation file number 98-438 was started. Sergeant Sheila Davis (badge number 235) was assigned to investigate this complaint.

PAC found that there was insufficient evidence to sustain Mr. DeSilvis's allegations of physical abuse. PAC stated that the delivery of necessary medical care was mishandled; that the training provided to the Officers involved in this matter was insufficient; and that the Department's directives and procedures relative to the care and handling of diabetic prisoners

were inadequate. PAC stated that it was unable to find that the target officers violated established Departmental policy or practice in their handling of the inadequate medical care situation.

This case was reviewed by the Philadelphia District Attorney's Office. Assistant District Attorney Schoenberg stated that based on his review of the investigative information received to date, the Philadelphia District Attorney's Office did not intend to pursue any criminal charges in this matter.

With regard to the denial of Mr. DeSilvis's physical abuse claim, PAC's opinion stated:

Mr. DeSilvis had difficulty during his testimony before the Hearing Panel. He acknowledged that he could not identify the Officers involved in the JFK Hospital incident, and that he had difficulty remembering exactly what had happened. His inability to accurately recall and explain the incidents was apparent. He was unsure of his dates and times. His recollections about when and how many times he received insulin were not consistent with the hospital records. He recalled that the Officers who transported him to JFK Hospital were a male-female pair, yet other evidence made it clear that two male Officers had performed the task. While it may be that Mr. DeSilvis could have made an honest error as to the gender of one of the Officers, the misidentification, particularly in view of the testimony that one of the Officers had his head shaven at the time, certainly did not bolster his credibility.

The photograph that Mr. DeSilvis presented to prove his injuries was taken from so far away (in terms of distance) that the supposed injuries to his palm, and shin were not visible in good detail. The framing of the picture instead of helping to clarify served only to raise questions about what might, or might not have been visible in close-up shots.

I.A.D concluded that Mr. DeSilvis's claim of physical abuse was unfounded. The wagon crew which transported Mr. DeSilvis to the hospital when the alleged physical abuse occurred was composed of a white male and a black male. In Mr. DeSilvis's I.A.D. statement, he alleged that a male and a female were involved in the alleged physical abuse incident. Mr. DeSilvis also did not report his injuries to medical personnel during his subsequent hospital visits. Moreover, despite the fact Mr. DeSilvis knew that ill or injured prisoners are transported to the hospital, he never sought any treatment for his alleged injuries. The only medical treatment the plaintiff had with regard to this alleged physical assault was when he began to see psychologist Dr. Michael Mulligan about a month after the alleged incident. Mr. DeSilvis admitted that he did not inform any officers, any supervisor, or any police official about the alleged physical abuse. Finally, Mr. DeSilvis stated that no one could see the alleged injury to his left leg because he was wearing long pants and that the alleged bleeding to his palm from the alleged puncture wound had stopped because he sat with his leg over his hand.

With regard to plaintiff's claim of inadequate medical care, PAC stated that the delivery of necessary medical care was allegedly mishandled. According to the PAC's opinion, Mr. DeSilvis testified as follows:

Mr. DeSilvis, during his hearing testimony, explained that he is insulin dependent; that he needed to inject himself with insulin twice a day, once in the morning, and once again in the evening. He further testified that if he misses an injection, his blood sugar level rises, and he begins to feel ill. The more time that passes without his insulin injection, the sicker he becomes, and the longer it takes to restore the proper sugar and insulin levels when treatment resumes. If left untreated for a sufficient period of time, he would become comatose, and eventually die.

According to his Commission complaint, Mr. DeSilvis should have received five injections while in custody, but received only two. When he testified before the Panel, he stated that his last injection before the arrest was at about 6 p.m., on June 3rd. He stated that he did not receive his first injection while in custody on June 4th until about 5 or 6 p.m. However, Mr. DeSilvis also acknowledged during his testimony that he may have received earlier treatment on June 4th, but that would have to be reflected on a hospital record. He also recalled receiving an insulin injection on the morning of June 5th.

Mr. DeSilvis' initial treatment while in custody was at Frankford Hospital. Mr. DeSilvis testified that he was taken by police officers to a hospital on three occasions, and received insulin during two of the three visits. As he recalled being released late on the night of June 5th, perhaps between 11 p.m. and midnight, he should have received four injections.

PAC stated that it was unable to find that the target police officers violated the established Departmental policy or practice in their handling of the situation.

At approximately 6:00 a.m., on June 4, 1998, Mr. DeSilis was arrested at his home and taken to Northeast Detective Division for questioning. Mr. DeSilvis was arrested after his sister had complained to the police that he had forged her name on applications for cellular phone service and a credit card. Mr. DeSilvis was charged with several crimes, including forgery. Following questioning by detectives, Mr. DeSilvis was processed for arrest. Police personnel completed a medical checklist concerning Mr. DeSilvis that correctly noted that he was diabetic and taking medication. PAC found that the evidence in this case established that the police did transport Mr. DeSilvis to the hospital to receive insulin on at least four separate occasions during the two days he was in custody. The one time Mr. DeSilvis was not given insulin was when he refused to sign his name to paperwork which the hospital itself required prior to receiving treatment at its facility. Mr. DeSilvis admitted that he refused to sign the form at the hospital and admitted that it was the hospital staff who refused to give him treatment, not the officers in question. Mr. DeSilvis never thought to ask for a superior or the person's name.

I.A.D. also concluded that Mr. DeSilvis's allegation that he was a victim of lack of service was unfounded.

Sergeant Davis concluded her investigation on February 2, 1999. This file was reviewed and approved by the Commanding Officer of I.A.D. and the Chief Inspector of the Internal Investigation Bureau. The Department did a thorough and complete investigation into this matter, considered and stands by its I.A.D. investigation into this matter, and declines to accept PAC recommendations.

In addition to the aforementioned, PAC found that the training provided to the Officers involved in this matter was insufficient and that the Department's directives and procedures relative to the case and handling of diabetic prisoners were inadequate.

Since the date of Mr. DeSilvis's incident, the Department had reviewed its training materials regarding diabetics and made changes and additions in its policies, training procedures, and training materials to ensure that officers understand the importance of tending to the medical needs of ill prisoners, including insulin dependent diabetics. The Department changed its policies, training procedures, and training materials as follows:

On January 29, 1999, the Department issued Memorandum 99-2. The subject of this memorandum is "Duty of Police of Police Officers to Identify and Facilitate Medical Care for Persons Found in Semi-Conscious or Unconscious Condition as a Result of Epilepsy, Diabetes, or Other Illness." It describes the legal obligations and procedures officers should follow when a person is found in semi-conscious or unconscious condition or exhibits symptoms due to epileptic or diabetic illness.

On January 18, 2000, the Department issued to the commanding officers, supervisors, and officers an "Assist Officer" titled, "Interacting with People with Disabilities (Recognizing a Person with a Disability)." An "Assist Officer" is a summary of hints to aid and assist police officers in their everyday duties.

On September 19, 2000, the Department issued to the commanding officers, supervisors, and officers, an "Assist Officer" titled, "Diabetes...What You Should Know." It discusses diabetes, diabetic emergencies, insulin reaction, symptoms and signs that occur at the onset of insulin, symptoms and signs of hypoglycemia, diabetic coma, symptoms and signs of diabetic coma, care for low blood sugar, and insulin and insulin delivery systems.

On December 1, 2000, the Department issued to all police personnel an Amendment to Directive 82 - Appendix C "Prisoner Safety." The following, relating to adult diabetic prisoners, was added to the following Section IV. - D:

D) Detention of Adult Diabetic Prisoners

1. All adult diabetics, both insulin and non-insulin dependant, who are charged with a crime will be transported to the Police Detention Unit for processing, and will undergo medical evaluation by medically trained personnel.

NOTE: Police Radio will be notified prior to transporting any prisoner. Officers will request a time check and provide police radio with the starting mileage. Upon arrival officers will again request a time check and provide police radio with the ending mileage.

2. Diabetic Prisoners who are under the influence of alcohol/drugs, or whose behavior indicates an immediate or serious threat to police will be transported to the Police Detention Unit in an emergency patrol wagon. Patrol supervisors who determine that the diabetic prisoner is non-violent or would pose no immediate or serious threat to police, may have the prisoner transported to the Police Detention Unit in a radio patrol car.
3. Those who are diabetic and who are detained for a relatively short period of time for investigation purposes, as well as those who will be cited with a summary citation and released, will be transported to the closest hospital for treatment, if such treatment is required.
4. Adult diabetic prisoners who are in need of immediate medical attention will be taken to the nearest hospital for treatment prior to being transported to the Police Detention Unit.

During the spring and summer of 2001, the Municipal Police Officers' Education and Training Commission ("MPO") started mandatory training with the Department on disabilities. MPO issued to the department training guide titled "Recognizing Special Needs: A Police Officer's Field Guide to Selected Disabilities" ("The guide"). This course is part of the MPO 2001 mandatory in-service program. Section one of the guide discusses recognizing impairment, hidden disabilities, specialized training, special needs, civil rights statutes, and the impact of disability statutes on police actions and operations. Section two discusses impairment, recognizing impairment, information received, officers observations, areas to assess, signs of impairment, and general principles of response. Section three discusses specific disabilities and general medical conditions such as diabetes. With regard to the diabetes section, the guide discusses and explains diabetes, hypoglycemia, symptoms and signs of low blood sugar (hypoglycemia), response guidelines, diabetes emergency management and implications for police officers. Section four discusses custody and disposition issues. The guide ends with selected case law, a resource list, and general references.

The aforementioned changes and additions in Department policy and training more than adequately meets the recommendations made by PAC.

Respectfully yours,

John F. Timoney
Police Commissioner

By:



Daren B. Waite
Special Advisor for the
Police Commissioner

DBW:mm

cc: Honorable John F. Street, Mayor
Joseph Martz, Managing Director
Kenneth I. Trujillo, City Solicitor
Michael Butler, Esq., Commission Legal Counsel
Hector W. Soto, Esq., Commission Executive Director