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ROUTINELY CHAOTIC

Rule #1: Don't let chaos distort the police response. Rule #2: See Rule #1.

By Julius (Jay) Wachtel. “She was too fast for me.” Taking the stand at his trial for murder, manslaughter and negligent homicide, [that's how NYPD Sgt. Hugh Barry explained](#) winding up in a situation that ultimately forced him to pull the trigger, mortally wounding Deborah Danner, 66, a diagnosed paranoid schizophrenic. Only a day later Mayor DeBlasio [declared the officer at fault](#): “The shooting of Deborah Danner is tragic and it is unacceptable. It should never have happened.” Police Commissioner James O’Neill agreed: “That’s not how we trained. We failed.”

On October 18, 2016 officers were dispatched to the apartment building where Ms. Danner lived and occasionally lost control. [Sgt. Barry testified](#) that when he arrived Ms. Danner was ensconced in her bedroom, a pair of scissors in hand. He said he convinced her to put the scissors down and come out, but she soon became recalcitrant. Fearing she’d go back for the scissors, he tried to grab her, but the panicked woman slipped away. So he chased her back into the bedroom, and got confronted with a baseball bat. Sgt. Barry testified that Ms. Danner ignored repeated commands to drop the object, then aggressively stepped towards him and began her swing.

In our earlier comments about the case ([A Stitch in Time](#) and [Are Civilians Too Easy on the Police?](#)) we referred to NYPD’s lengthy and, in our opinion, [confusingly written protocols](#). In all, these rules apparently prescribe that unless a mentally ill person’s actions “constitute [an] immediate threat of serious physical injury or death to himself or others” officers should limit their response to establishing a “zone of safety” and await the arrival of their supervisor and an emergency services unit.

Well, a sergeant got there, and he didn’t wait for the specialists. With the Big Apple still reeling from [Eric Garner’s death at the hands of a cop](#) two years earlier, the mayor and police commissioner probably figured that accepting responsibility and promising reform was the wisest course. Ditto for the D.A. While [she vigorously insisted](#) that her decision to prosecute was based on the facts, and nothing but, expressions of concern by Black Lives Matter and other activists might have helped spur [Sgt. Barry’s indictment seven months later](#).

As one would expect, the charges – and their severity – caused an uproar in cop-land. Here’s how the NYPD Sergeant’s Benevolent Association [disparaged](#) the “political prosecution”:

Police Commissioner James O'Neill stated that "we failed" when describing the fatal shooting of Deborah Danner, an emotionally disturbed woman who attacked Sgt. Hugh Barry with a baseball bat. The reality is that Commissioner O'Neill "lied" because, in the split-second that Sgt. Barry had to make a momentous decision, he followed department guidelines...

Here's how a union member saw it:

...There is nothing easier than to be a Monday morning quarterback. This is an absolute joke, my thoughts and prayers are with all of you guys in particular Sgt. Barry. I am quite confident justice will prevail in this situation...

While their arrival was staggered (Sgt. Barry reportedly came in next to last), five patrol officers and two paramedics ultimately handled the call. According to a reporter who sat through the trial, [their testimony clashed](#):

Two emergency medical technicians and five police officers have testified over the last two days of trial, giving differing accounts of what happened. It is not unusual for witnesses to a shooting to remember things differently, though in this trial, some of the inconsistencies have been striking.

"Striking" seems an understatement. [A paramedic testified](#) that she was conversing with Ms. Danner when the supervisor arrived. Sgt. Barry didn't contact her, and officers soon butted in, causing the agitated woman to scurry back to the bedroom. However, four officers insisted that the medics never actually entered the apartment, while the fifth, Officer Camilo Rosario, said that the EMT who spoke with Ms. Danner [retreated to the front door](#) when Sgt. Barry arrived. Officer Rosario's account also differed from Sgt. Barry's. Officer Rosario said he informed his supervisor about the scissors and Ms. Danner's refusal to voluntarily go to the hospital. So they soon decided to go to the bedroom to fetch her. Officer Rosario, who was right behind Sgt. Barry, agreed that Ms. Danner threatened with a bat, and that's when the shooting happened.

Sgt. Barry conceded that containing Ms. Danner within a "zone of safety" and awaiting the arrival of an emergency services team might have been possible. He also turned away (we think, correctly) the suggestion he should have used a Taser, as CED's are neither suitable nor intended for use as defensive weapons. Of course, Sgt. Barry wasn't being prosecuted for violating policy but for needlessly taking Ms. Danner's life. In the end, the judge (it was a bench trial) felt that prosecutors did not meet their stiff burden, [and he acquitted Sgt. Barry](#) on all counts.

In “[Are Civilians Too Easy on the Police?](#)” we suggested that the case was purposely overcharged so that jurors who may have been reluctant to severely sanction a cop had a lesser offense on which to convict. That’s probably why Sgt. Barry opted to be tried by a judge. He is [presently on desk duty](#) awaiting an internal hearing. Unless he can convincingly argue that his decision not to wait for specialists was correct – that Ms. Danner posed an imminent threat to herself or others – his future with NYPD seems bleak.

In science the “ideal case” is a made-up example that typifies the situation under study. But when it comes to failed encounters between citizens and police there’s little need to concoct scenarios. Our [Use of Force](#) and [Strategy and Tactics](#) sections brim with accounts of policing gone wrong (for a few recent examples click [here](#)). Indeed, handling chaos is what cops do. What they try to avoid – usually, successfully – is letting the messiness of the real world infect their response so it turns into what officers sneeringly refer to as a “cluster”.

To be sure, there is no shortage of guidance for handling fraught situations. Experts [routinely advise](#) that officers who encounter troubled persons “[de-escalate](#)” and slow things down, giving themselves an opportunity to think things through and [making time](#) for supervisors and specialists to arrive. Well, they may not have called it “de-escalation,” but that commonsense approach is what good cops have always done. Regrettably, what advice-givers can’t supply is more cops. Lots of bad things can happen during a shift, from nasty domestic disputes to robberies and shootings, so care must be taken to leave some uniforms available. Given limited resources (anybody out there got too many cops?) calls must be handled expeditiously and without needlessly tying up specialized teams. As a one-time police sergeant, your blogger thinks that’s what Sgt. Barry was trying to do. Really, a supervisor, five officers and two EMT’s on a single call would be pretty darn good most anywhere.

Might things have turned out differently had an officer Tasered Ms. Danner early on? Possibly. NYPD’s rules specifically allow (i.e., encourage) using CED’s “to assist in restraining emotionally disturbed persons.” Properly deploying the devices, though, can be tricky. At least two officers must be directly involved. Subjects should be relatively still, offer an ample target area and not be heavily clothed. Applying multiple doses or zapping the infirm, elderly or mentally disturbed (Ms. Danner fits at least the last two categories) [can prove fatal](#). CED’s are useful, but far from an unqualified solution.

Fine. Humankind is frail. Chaos rules the streets. There is a surplus of wackos and a shortage of cops. One-size-fits-all solutions are rare. So, Dr. Jay, what do *you* suggest?

We won't belabor the subject of critical incident response, which has been exhaustively addressed by authoritative sources (for two examples click [here](#) and [here](#).) Instead, let's advance a couple of points that are frequently missing from the conversation.

First, as to early intervention. "[A Stitch in Time](#)" emphasized the pressing need to detain mentally disturbed persons for examination and treatment as soon as they become a cause for police concern. That's especially true for individuals such as Deborah Danner who live alone. If that seems harsh, consider that waiting until the third episode may, as with Ms. Danner, turn into a death sentence.

Secondly, we must stop thinking of police as a quasi-military force. Those of us who have been in both occupations know that military operations are typically conducted in groups. Policing is decidedly not. While police also have sergeants, lieutenants and what-not, life-changing decisions are regularly made by twenty-somethings with a badge, acting completely on their own. By the time supervisors such as Sgt. Barry arrive on scene a lot has usually transpired. From our reading of news reports, Officer Rosario seemed to be especially well-informed, having observed Ms. Danner's behavior from the early stages of the incident through her interaction with the EMT. But he apparently deferred to the judgment of his late-arriving superior, who promptly grabbed for the woman, and ultimately shot her, within five minutes of arrival.

What to do? Police protocols should place those most familiar with a situation – typically, the first officer(s) on scene – in charge, at least until things have sufficiently stabilized for a safe hand-off. Officer Rosario and his colleagues had been monitoring the disturbed woman and waiting her out. Had Sgt. Barry taken on a supportive role, as supervisors routinely do, and let her alone, a heart-warming Hollywood ending might have been far more likely.