

March 7, 2024

Representative Jessica Hanson
Minnesota House of Representatives Members
Committee on Public Safety Finance and Policy

Re: H.F. No. 4118, Excited Delirium

Dear Representative Hanson and Minnesota Representatives:

I am writing about H.F. No. 4118, concerning “Excited Delirium.” I am a longtime civil rights lawyer in Oakland, California. I handle wrongful death cases involving law enforcement, and have worked to debunk “excited delirium” for two decades. I provided amendments for California’s Assembly Bill 360 on “excited delirium,” on which your bill is based. I co-authored the attached report from Physicians for Human Rights (PHR) on excited delirium, entitled *Excited Delirium and Deaths in Police Custody: The Deadly Impact of a Baseless Diagnosis* (March 2022). The report includes information I gathered over many years concerning the junk science nature of the “excited delirium” theory, its racist and sexist roots, and the bankrolling and promotion of the theory by TASER International (now known as Axon Enterprise) and its lawyer and paid defense experts. My PHR physician co-authors also include a review of the medical literature concerning the junk science theory.

My partner, Michael Haddad, and I have handled many cases involving restraint asphyxial deaths in police custody during the last two decades. We currently represent Mario Gonzalez and his six-year-old son. Mario was killed on April 19, 2021, by Alameda, California, police officers who restrained him in a prone position, with three officers putting their weight on him, for over five minutes. For almost four of those minutes, the officers had already handcuffed Mario behind his back. The defense forensic pathologist, Judy Melinek, MD, testified that Mario was in “excited delirium.” We have repeatedly encountered the junk science theory of “excited delirium” as a defense in cases such as the Gonzalez case.

I have spoken at conferences concerning law enforcement contacts with the mentally ill, including the International Congress on Law and Mental Health. In 2020, I spoke to debunk “excited delirium” and expose its history at an international Death in Custody medical conference that had participants from 27 countries in attendance. I have also provided *pro bono* consultation and advice to Minnesota Attorney General Keith Ellison and his lead special prosecutor, Steve Schleicher, to assist them in prosecuting the Minneapolis police officers who killed George Floyd, and to help them rebut the “excited delirium” defense when it arose in their case.

Last month, I testified in the Colorado House of Representatives in favor of that state’s new bill to prohibit the use of “excited delirium.”

I am writing both to thank Representative Hanson for introducing this legislation, to support the bill, and to offer help and thoughts based on my years of experience with this junk science theory.

“Excited delirium” was debunked in Miami in the 1980’s but the theory’s founder, Charles Wetli, MD, continued to promote the theory nationally. BBC Radio just released an excellent 30-minute

program concerning the history of “excited delirium,” which you can find wherever you get your podcasts. It is the BBC Radio program by Jon Ronson entitled “The Most Mysterious Deaths,” from his “Things Fell Apart” program, Season 2, Episode 1.

Following Dr. Wetli’s lead, TASER International then promoted “excited delirium” as an alternate cause of death when people died after being Tased, and the company spent a lot of money promoting the theory in law enforcement training and among forensic pathologists. The PHR report provides an extensive discussion of the history of the theory that I discovered during my years of investigation. Initially after the PHR report was published, the American College of Emergency Physicians (ACEP) -- which has longtime defense experts and TASER/Axon-affiliated experts among its more prominent members -- doubled down on “excited delirium.” In response to our PHR report, ACEP simply substituted “hyperactive” for “excited.” ACEP continued to promote the defense, now calling it “hyperactive delirium” instead of “excited delirium.”

It was not until last fall that ACEP finally withdrew support of “excited delirium” and ACEP’s 2009 White Paper endorsing the theory. I attach my letter to ACEP’s leadership explaining that the 2009 White Paper actually came out of a 2008 propaganda conference organized and hosted by a company founded by TASER International’s general counsel, along with the company’s longtime defense expert.

In addition to H.F. No. 4118, you have the opportunity to reduce in-custody deaths significantly by mandating that all law enforcement officers in Minnesota receive Crisis Intervention Team (CIT) training as part of their law enforcement academy, and annual follow-up training once they are on the job. You could simply require that all law enforcement academies in Minnesota include one week of CIT training, and that in addition to becoming law-enforcement certified, officers must become CIT certified before they are permitted to begin their field training.

Up to 50% of people who die during encounters with law enforcement have a mental illness. CIT training programs have been shown to greatly reduce not only injuries and deaths of the person in crisis, but also injuries to law enforcement officers who could have avoided going hands-on with the person in the first place. As we all know, with the reduction in community treatment services for people who have mental or behavioral health issues, a large portion of a police officer’s job includes responding to non-law-enforcement matters involving people in crisis. One weakness in most CIT training programs is that they only train some of the department’s officers in how to handle these crises, and do not require that all officers receive the training. Non-CIT officers must call and wait for a CIT officer to respond to a person in crisis. In my experience, non-CIT officers typically choose to handle the calls themselves and not wait for this appropriately trained backup. Additionally, it makes no sense not to give *every* officer all of the tools he or she needs to safely handle calls involving people in crisis.

Therefore, I recommend that the Legislature require every police officer in Minnesota to undergo not only the initial 40-hour CIT training, but also thorough annual follow-up, refresher CIT training, because handling these calls is a perishable skill. It should be a job requirement: any person who wants to wear a badge and carry a gun must agree to add CIT skills to the toolbox and follow that training. Here is information on CIT training:

[https://www.citinternational.org/resources/Best%20Practice%20Guide/CIT%20guide%20desktop%20printing%202019_08_16%20\(1\).pdf](https://www.citinternational.org/resources/Best%20Practice%20Guide/CIT%20guide%20desktop%20printing%202019_08_16%20(1).pdf)

[https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-\(CIT\)-Programs](https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-(CIT)-Programs)

CIT training programs should also be augmented with a more robust program that redirects non-violent calls involving an ‘emotionally disturbed person’ away from law enforcement and to a crisis response team with behavioral health resources. Eugene, Oregon, has instituted an excellent program. I am not fond of the name of their program “CAHOOTS,” but the substance of what they are doing is excellent. The program is run by a mental health clinic, not law enforcement. Dispatchers are trained to recognize non-violent calls with a behavioral health component like the calls concerning Mario Gonzalez, and route those calls to CAHOOTS instead of to law enforcement.

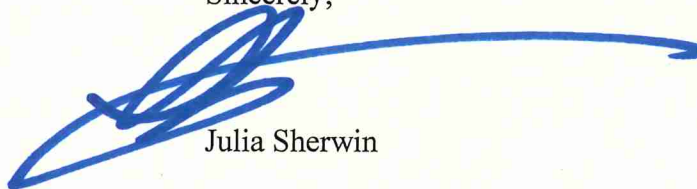
CAHOOTS staff wear regular street clothes, instead of uniforms that can be intimidating to a person in crisis. The two-person teams include a health-trained person such as a nurse, paramedic, or EMT, and a crisis-trained mental health worker. They do not carry weapons and are not trained in law enforcement. The CAHOOTS teams handle calls involving conflict resolution, welfare checks, substance abuse, suicide threats, and behavioral disturbances, and use trauma-informed de-escalation and harm reduction techniques. The teams defuse the situation and provide stabilization, assessment, information, referrals, advocacy, and can even transport the person to the next step in treatment.

The City of Eugene is able to route 17% of calls its police department receives either from 911 or on its non-emergency line, to CAHOOTS instead. Of 24,000 calls handled by CAHOOTS teams, the teams only needed to request police backup 150 times. And, the program is saving the City of Eugene \$8.5 million a year in public safety spending. Here is information about the City of Eugene’s program:

<https://whitebirdclinic.org/what-is-cahoots/>

These straightforward measures will make all Minnesota law enforcement officers’ jobs safer, will make your communities safer in general, and most importantly, will save lives. I am happy to discuss any of the matters addressed in this letter with you further. In addition, I am happy to arrange to meet with any of you. Thank you very much for your time and attention.

Sincerely,



Julia Sherwin