

The Progressive

Smart Ass Cripple: Police Are Not Mental Health Professionals

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When an on-duty police officer sets someone on fire, have they violated that person's civil rights?

I'd venture to guess that any reasonable person would say yes. But apparently there are at least three judges on the U.S. Court of Appeals who believe otherwise.

More than 1,300 of the fatal shootings by police since 2014 involved someone the police said was having a mental health crisis. That's about 25 percent of all people killed by police during that timespan.

In 2017, police in Arlington, Texas, responded to a 9-1-1 call from a man who said his father was threatening to commit suicide by setting himself on fire. Three police officers entered a house and found Gabriel Eduardo Olivas holding a gasoline can. According to police accounts, one officer warned the others that if Olivas was tased it could ignite a fire because of the highly flammable gasoline. So the officers pepper sprayed Olivas, which subdued him temporarily before he continued dousing himself with gasoline.

The officers claim that Olivas produced what looked like a lighter, so two of them tased him and sure enough, he burst into flame. The police and Olivas's family evacuated the house and it burned to the ground. Olivas later died of his injuries.

Olivas's family sued the police officers who tased him for using excessive force. The officers' lawyers moved that the case should be dismissed, claiming the officers could not be sued because of qualified immunity. But a District Court judge disagreed that the officers could not be held liable and allowed the case to proceed.

The ruling was appealed and in February, a three-judge panel unanimously agreed that, given the circumstances, the officers didn't use excessive force and therefore were immune from prosecution. The lower court ruling was reversed.

That ruling is so absurd that even the Cato Institute, a libertarian think tank, and Americans for Prosperity, the political action vehicle of the Koch brothers, came out against it. They filed an amicus brief, along with the ACLU of Texas and Disability Rights Texas, urging the full Appeals Court to overrule the panel.

The brief said the decision "reinforces a dangerous but widespread misunderstanding of how the doctrine of qualified immunity should apply."

This outrageous story is yet another example of the extent to which cops can weasel out of being held accountable for their actions by hiding behind qualified immunity. It also illustrates, once again, how easily things can go tragically wrong when police are sent to deal with someone in the midst of a mental health crisis.

According to research done by *The Washington Post*, more than 1,300 of the fatal shootings by police since 2014 involved someone the police said was having a mental health crisis. That's about 25 percent of all people killed by police during that timespan.

This is what defunding the police is all about. Mental health professionals should be the first responders when situations like these inevitably arise. And to pay for that, we should redirect the money that is reflexively allocated to police departments.

Police have repeatedly proven that they aren't any more qualified than a plumber to successfully handle mental health crises. We shouldn't be surprised that things like this happen when they're the first responders. And they'll keep on happening until things change.