

## **Death Certification of “Suicide by Cop”**

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## **Abstract**

Death certification of “suicide by cop” is controversial among some medical examiners and coroners. We present five such deaths that were certified as suicides and discuss the medico-legal issues involved with these certifications. To certify such a death as a suicide, certain criteria should be met. Suicide by cop is a circumstance that involves competing intentional acts that may result in dichotomous determinations of the manner of death. Despite the absence of direct self-infliction, there is overwhelming evidence that these five individuals intended to end their own lives. Their use of an unusual method to accomplish this goal may inappropriately result in a reflexive certification of homicide. All of the decedents possessed weapons or a facsimile of a weapon. We present five instances of suicide by cop and contend that these types of deaths are best certified as suicides.

**KEYWORDS:** forensic science, forensic pathology, suicide, police, gunshot wounds, manner of death

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FIG. 1—Inoperable handgun with bent trigger and trigger guard (case no. 4)

## **Introduction**

A death certification of “suicide by cop” is controversial among some medical examiners and coroners (ME/C) (1–3). Typically, a violent death at the hand of another is certified as a homicide. In rare instances, however, some people intent on committing suicide will attempt to use another person as the lethal agent (2,4–11). For example, a suicidal person may make a dangerous, public demonstration that invokes a police response. This person may point a firearm at civilians and/or the police and intentionally escalate the encounter with the police who then use deadly force. If this decedent’s act was intended to cause his/her own death, should it be certified as a suicide despite the fact that it occurred at the hand of another? The controversy is whether these deaths should be certified as suicides or homicides. This study presents five examples of suicide by cop (also known as “police-assisted suicide” or “police-assisted homicide”) and discusses why suicide (and not homicide) is the appropriate manner for these deaths.

The role of the forensic pathologist is to be an unbiased fact finder who determines the cause and manner of death according to consistent criteria. The manner of death is determined by the autopsy findings and the circumstances of the death. According to the United States Standard Certificate of Death, the manners of death include: natural, accident, suicide, homicide, and undetermined (12). Suicidal injury is the eighth leading cause of death among Americans (13). Some forensic pathologists may be reluctant to certify a suspected suicide as a suicide for various reasons including unclear circumstances; lack of enough evidence showing intent; and pressure from the family who for religious, personal, cultural, or monetary reasons (e.g., potential loss of insurance benefits) oppose it (13). Operational criteria have been proposed to assist forensic pathologists in the determination of suicide (14). These criteria include: evidence that the death was self-inflicted and intentional, which may include verbal or nonverbal expressions or implicit or indirect evidence of intent to die. Although these criteria may help standardize the information used to determine a suicide, it does not take into account special circumstances in which there is direct evidence that the decedent had the intent to die but accomplished that intent at the hand of another.

A review of officer involved shootings in Los Angeles County from 1987 to 1997 reported that 11% of these deaths fell under the category of “suicide by cop” based on specific criteria (1). These criteria include: evidence of the individual’s suicidal intent, evidence that they specifically wanted police officers to shoot them, evidence that they possessed a lethal weapon or what appeared to be a lethal weapon, and evidence that they intentionally escalated the encounter and provoked officers to shoot (1). Despite these individuals showing a clear intent to die, all were certified as homicides. Comparable studies in Oregon and Florida have reported similar findings (2). There appears to be a lack of consistency among ME / C regarding death certification in individuals who purposely provoke law enforcement into shooting them. Without consistency, varying ME / C’s decisions may appear arbitrary and capricious.

To certify such a death as a suicide, certain criteria should be met. These are often very complex investigations, and the opinions and findings of the medical examiner are only one factor of many in the legal proceedings needed to properly evaluate them. We present five such deaths that were certified as suicides and discuss the medico-legal issues involved with these certifications.

## Materials and Methods

The New York City Office of Chief Medical Examiner (NYC OCME) investigates all unexpected, violent, and suspicious deaths in New York City. By statute, these deaths must be reported to the OCME. A review of all suicides between January 1, 1996 and October 1, 2006 in which the decedent died because of gunshot wounds (GSWs) inflicted by one or more law enforcement agents (“shot by police”) was performed. We identified five medical examiner death certificates that met these criteria. During the study period, there were a total of 5442 suicides and 7603 homicides. We reviewed the medical examiner records, which included the autopsy, toxicology, police, and medical examiner investigators’ reports. All deaths underwent autopsy and toxicology testing. The law enforcement agents were City Police in all deaths.

Manner of death is determined from the circumstances and cause of death. The manners of death listed on the United States Standard Certificate of Death include: natural, accident, suicide, homicide, and undetermined (12). The medico-legal definition of homicide is death at the hand of another or death because of the hostile or illegal act of another (15). The demonstration of intent to kill is not required for a death to be certified as homicide. Intent is used in criminal proceedings to determine legal degrees of homicide (e.g., manslaughter vs. murder). In general, the homicide manner dominates even if there are contributing natural or accidental processes in the death. The classic, death certification definition of suicide is death caused by an injury or poisoning as a result of an intentional, self-inflicted act to do self-harm or cause the death of one’s self (16). It also has been called “self-murder” (15). To certify a death as suicide by cop, a clear intent by the decedent to cause his death through police action is required (1,9,11). In New York City, all police shootings are investigated by the police internal affairs division and the District Attorney’s Office.

Postmortem blood was collected in each death, preserved with sodium fluoride, and stored at 4°C. Toxicology analysis was performed on all decedents. All toxicologic testing was performed by the Forensic Toxicology Laboratory at the OCME. Ethanol concentrations were determined in blood using head space gas chromatography (GC). Specimens were routinely tested for opiates, barbiturates, amphetamines, PCP, benzoylecgonine (BE), and methadone by enzyme or



radioimmunoassay. Morphine, codeine, and BE were quantified using GC/mass spectrometry. Urine or blood was also analyzed for basic drugs (including cocaine, PCP, methadone) by GC.

## Results

Five cases in the study period were certified as suicides in New York City, despite the use of lethal force by law enforcement. All of the decedents were men with an average age of 34 years (range 26–43). Ethanol and cocaine were detected in two decedents, and the other three had a history of psychiatric illness.

All of the decedents had injuries caused by handguns and possessed a weapon or a facsimile of a weapon. There were three handguns, two knives, and one silver cigarette lighter in the form of a gun. A total of 21 bullets struck the five decedents. One decedent sustained a single GSW, and others had three to seven GSWs. More than one police officer was involved in all instances that the decedent sustained more than a single GSW. The number of shots fired is unknown to us. There were five penetrating, 10 perforating, and six graze wounds. No gunshot residue (fouling or stippling) was observed on the skin surrounding the wound, in the wound track, or on the clothing in any instance.

The reason for the police presence was response to a crime (4/5) and routine patrol that came upon a crime (1/5). The justification for the use of deadly force was the decedents' possession/use of an apparent weapon (5/5). During all of these incidents, the decedents injured civilians or put them in apparently dangerous situations. Two civilians suffered incised wounds, two were beaten, and one was fatally shot. The circumstances of the deaths are as follows.

### Case No. 1

A 26-year-old man with a psychiatric history grabbed a passing woman on a busy street corner during the day. He stated that "Fat Joe" told him to kill her and also stated that if "they" kill him, then he would not have to kill her. Police arrived, and the decedent cut the woman's neck and released her. He then ran down the street with police in pursuit and took another woman hostage. He grabbed her as she was entering a supermarket. He held the knife to her neck. As the police were attempting to engage the deceased in conversation, multiple witnesses heard the man state "I'm going to kill her" and begged police to kill him. The police shot him.

Postmortem toxicologic analysis detected no ethanol or drugs of abuse.

#### Case No. 2

A 43-year-old man with a history of anxiety and depression (recently lost his job and was on medications) had beaten his mother, slashed his wrists and torso, and was then menacing the police with a gun and knife. After numerous orders to drop the gun and knife, he was shot by police. Multiple witnesses expressed the opinion that he “definitely wanted to die” and even told the police to “aim higher.” Postmortem toxicologic analysis detected no ethanol or drugs of abuse.

#### Case No. 3

A 43-year-old man had a history of bipolar illness with recent depression and suicidal ideation. A few years prior, he had waived and pointed a pellet gun and knife at people passing by on the street. When police arrived, the decedent told them he wanted to die. Police were able to talk him into dropping the weapons, and he was placed in a psychiatric hospital for 4 months. The decedent had been making suicidal comments in the months preceding his death. He was upset over his medical condition that caused short stature and absences of secondary sexual characteristics. He drove to his former work location and threw a rock through his ex-manager’s car window. Employees observed him holding a handgun, get back into his car, and drive away. Police were called, and the decedent led them on a high-speed pursuit. The decedent stopped his car, exited the vehicle, and pointed the handgun at police provoking them to fire at him multiple times. Postmortem toxicologic analysis detected no ethanol or drugs of abuse.

#### Case No. 4

A 32-year-old man was estranged from his domestic partner with whom he had a child. He was upset that she no longer wanted to be his girlfriend and had previously assaulted her and threatened to kill her if she did not get back with him. He called her at her work location, a pawn shop, and threatened her over the phone. A few minutes later, he arrived at the pawn shop and was buzzed in by the owner. The decedent was confronted by an employee, at which time he pulled out a revolver and fatally shot the employee. As workers of the shop escaped to the basement through a trap door and called 911, the decedent forced his ex-girlfriend into the

“safe room.” He bludgeoned her to death by repeatedly striking her with his revolver (bending the trigger and trigger guard, which made the gun inoperable) and stabbing her with a spear gun. As police arrived and entered the premises, the decedent turned and pointed his inoperable gun (see Fig. 1) at two police officers. The two officers shot him, and he was pronounced dead at the scene. Subsequently, a suicide note was recovered from his home that stated that he could no longer live this way and to forgive him. He also included instructions and money for the disposal of his body. There was no history of psychiatric illness. Postmortem toxicologic analysis detected ethanol (0.15 g%) and cocaine (0.4 mg/L) in the blood.



FIG. 1—Inoperable handgun with bent trigger and trigger guard (case no. 4).

## Case No. 5

A 26-year-old man was visiting his mother in a suburb of a large city. He had a history of depression and drug abuse. He was fleeing a homicide warrant in another state. He told his mother that he “won’t go back to prison.” At 2:00 am, he asked his mother for money to go to the city. Before leaving, he pulled out a shiny, silver metal handgun. He pulled the trigger and a flame came out of the muzzle (it was a cigarette lighter that looked like a gun). He hired a car service, told the driver to take him to a night club in the city, and then called his mother from the car. He told her to look under the photographs on the coffee table for a note and ended the phone call. She found a note signed by him that stated: “Goodbye, I really did want a good life. I’m sorry.” Later, as he was driven by the night club, he pointed the gun at people standing on the sidewalk. He exited the car, pointed his imitation gun at a person, returned to the car, and had the driver drive around the block. A person at the nearby night club told a passing police car of the incident. After the police car pulled over the livery cab, he exited the car holding the cigarette lighter gun. The police shot him. Postmortem toxicologic analysis detected ethanol (0.06 g%) in blood and cocaine (0.1 kg/L) in the brain.

## Discussion

Suicide by cop is a circumstance that involves competing intentional acts that may result in dichotomous determinations of the manner of death. In some jurisdictions, these deaths are certified as homicides (1,2). As these deaths occur at the hand of another, the invoked reasoning is that homicide dominates the certification. But what if there was reliable evidence that a person wanted to die and committed his/her own intentional act to further that goal? If the death was the result of an intentional act to do self-harm or cause death of one's self, then the manner of death is more appropriately certified as "suicide" in these instances despite the fact that the decedent did not pull the trigger.

A report on operational criteria for suicide by a working group of death investigators and public health agencies listed two criteria for a suicide determination: intent and self-infliction (13,14). With regard to intent, they stated: "There is evidence (explicit and/or implicit) that, at the time of the injury, the decedent intended to kill him/herself or wished to die and that the decedent understood the probable consequences of his/her actions" (14, p. 1448). In the above-mentioned five instances, the decedents fulfilled this intent criterion. A person who knowingly points a firearm at an armed police officer understands the probable consequences of this action.

Their other criterion for a certification of suicide was self-infliction. They stated: "there is evidence that death was self-inflicted. This may be determined by pathologic (autopsy), toxicologic, investigatory, and psychologic evidence and by statements of the decedent or witnesses" (14, p. 1448). They did not further define what qualifies for a "self-inflicted" injury. Self-inflicted is defined as injury that is inflicted or imposed on oneself. But how literal is this definition? A person who intentionally walks in front of speeding train is self-inflicting the injury even though they are not operating the train. Are these police shootings an analogous situation? One may argue that there is a difference because the train conductor had no choice and was not intending to kill the person while the law enforcement agent intentionally chose to do harm (a volitional act).

Homicide also has been defined as death from a volitional act committed by another person to cause fear, harm, or death (16). The phrase “volitional act” suggests that the perpetrator had a choice, option, or preference. That is, the shooter had the choice to pull the trigger or not. Law enforcement agents, however, have a sworn duty to protect. Although they ultimately do decide whether to pull the trigger, their duty and training allow them little, if any, choice in certain situations. Indeed one of the reasons that people may attempt this method of suicide is that they know the law enforcement agent will be forced to shoot them. They, in a sense, make the choice for the law enforcement agent.

Mohandie and Meloy (4) described clinical and forensic indicators of “suicide by cop.” They state that “suicide by cop” is a “term used by law enforcement and others to describe an incident in which an individual engages in behavior which poses an apparent risk of serious injury or death, with the intent to precipitate the use of deadly force by law enforcement personnel towards that individual” (4, p. 384). They describe key life events, historical and situational indicators, and verbal and behavioral clues for suicide by cop (4).

A study by Hutson et al. used four criteria for this diagnosis: (i) suicidal intent, (ii) intent to be shot by law enforcement, (iii) possession of a lethal weapon or facsimile, and (iv) intentional escalation of the encounter (1). We believe a fifth criterion should be explicitly included that requires the legal use of force by law enforcement. These legal actions of law enforcement are what distinguish these deaths from other instances of “assisted suicide” that would be certified as homicides if they involved the illegal actions of another.

Wilson et al. (2) described deaths of 15 suicidal people at the hand of law enforcement in Florida and Oregon and discussed the “argument/view” favoring certification of these deaths as suicides or homicides. They intentionally, however, did not offer unified recommendations regarding the manner of these deaths. They focused on the intentional killing of another as diagnostic of homicide and stated that “the most common practice is to classify intentional killing as homicide regardless of the victim’s state of mind.” (2, p. 51). In their view, the intent of the shooter outweighed the intent of the suicidal person. The problem with relying on intent to certify a death as a homicide is that not all deaths certified as homicide occur from an



intentional act to kill (e.g., criminal neglect, arson).

One risk of certifying some deaths that occur at the hand of another person (particularly when they involve law enforcement) is the slippery slope argument. Not everyone who brandishes a gun in the presence of a police officer is intending to commit suicide. Therefore, there need to be specific criteria to invoke suicide. As discussed above, intent to die is one. This intent to die should not apply to “last-ditch” efforts or careless actions. For example, a person attempts to rob a bank and is surrounded by dozens of armed officers. If the robber, in desperation, tries to “shoot his way out,” his death should not be certified a suicide unless it could be shown that prior to the attempted robbery, the decedent was intending to end his life through this confrontation with the police. If, however, that robber shoots himself in this inescapable situation (so-called police-associated death), then a suicidal manner is appropriate (17).

ME/C who certify these “suicide by cop” deaths as suicides are at risk of being accused of a cover-up for the police. Families of the decedent may not trust the ME/C because of the generally cooperative relationship they have with the police in their daily work. ME/C may be reluctant to certify these deaths as suicides for fear of appearing biased toward the police or the municipality. By invoking the strict definition of homicide as a death that occurs at the hand of another (or as an intentional act of another), the ME/C may explain and easily defend their certification of homicide. All deaths that occur at the hand of another, however, are not certified as homicides. There are numerous well-established exceptions to this rule (e.g., deaths caused by athletic injuries, most motor vehicle collisions, and medical errors) (3,18). We believe that suicide by cop is another exception.

## **Future Directions**

For police shootings, the conventional certification remains “homicide” in the absence of other compelling circumstances (19). But just because these deaths occur at the hand of another, there should not be an automatic homicide determination in all instances. Suicide should be considered in these deaths. In rare instances, people may retain another person to cause their own death. Their motivations may be related to personal issues such as misleading an insurance company that has a suicide exemption clause or simply the need of physical assistance. In these instances, because of the illegal nature of the action (even with a willing victim) and credibility issues of the defendant that may be best accessed by the legal system (“He asked me to kill him”), a homicidal manner is appropriate. Despite the willingness of the victim, if the action of the assistant is illegal, the manner should be homicide. This differs from police shootings that can have legal justification when law enforcement agents discharge their duty to protect the public. Therefore, illegal euthanasia that occurs at the hand of another person would be certified as a homicide.

## **Conclusions**

Despite the absence of direct self-infliction, there is overwhelming evidence that these five individuals intended to end their own lives. Their use of an unusual method to accomplish this goal may inappropriately result in a reflexive certification of homicide. We believe that these types of deaths are best certified as suicides.

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