



People With Disabilities Foundation

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January 23, 2015

Sent via U.S. Mail

Hon Edwin Lee, Mayor
City and County of San Francisco
City Hall
Room 200
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Mr. Dennis Herrera, City Attorney
City Hall
Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Mr. Peter J. Keith
Deputy City Attorney
1390 Market Street, 7th floor
San Francisco, CA 94102

RE: Your letter to the ACLU dated January 21, 2015, which is also published on the City Attorney's website

United States Supreme Court, Case No. 13-1412

Dear Hon. Edwin Lee, Mayor; Mr. Dennis Herrera, City Attorney; and Mr. Peter Keith, Deputy City Attorney:

In addition to reading your letter to the ACLU, I have read your brief to the U.S. Supreme Court and am very concerned regarding your characterizations of a "public safety threat," being an issue in this case. As I told Mr. Keith over the telephone, People With Disabilities Foundation (PWDF) has for the last 14 years been operating in San Francisco's Civic Center with a mission of total integration of the population with severe mental and/or developmental disabilities into the whole of society. It is hard to believe that San Francisco County, in which we operate, would take a position against the very vulnerable population for whom we have been and continue to advocate.

That 9th Circuit opinion, with which the City and County of San Francisco does not agree, recognized that notwithstanding that Ms. Sheehan had wielded a knife, there were insufficient safety threats based on the fact that San Francisco police evacuated the residential house in which Ms. Sheehan resides, had left Ms. Sheehan's room and called for back-up presumably so they could follow their crisis intervention training and other training to diffuse the situation before they went back in her room again. The case worker knew her well, knew she was off her meds again and called the police to take her to the psychiatric ward at the county hospital under Section 5150 (LPS Act).

This situation has happened too often in San Francisco and PWDF participated in the crisis intervention team (CIT) training developed in 2011 with the San Francisco Police Department at the Hall of Justice in order to avoid this kind of situation.

There was no public safety threat. The Police Department has undergone training and the Behavioral Health Services Department of San Francisco (County Mental Health) already has experts assigned for emergency situations such as this with the intent of increasing the safety of the psychiatrically impaired individual in addition to everyone else. That is exactly the premise upon which the 9th Circuit decision on the case was based and which the City of San Francisco is now trying to overturn.

We ask the City to withdraw its petition and brief now before the U.S. Supreme Court.

It is simply not true that the police should not take into account an individual's disability in order to protect the public's safety, the safety of others, not increase taxes on the San Francisco taxpayer and not expand liability. The situation, unfortunately, is not unusual.

Here, the house was cleared of all people and there was nowhere that Ms. Sheehan could go as she was on the second floor with no stairs to exit the building. The police left her bedroom the first time and called for back-up. They would have helped diffuse the situation. The two police officers did not wait as they were anxious to re-enter so they could pepper spray Ms. Sheehan.

All Ms. Sheehan asks for is the right to let a jury decide whether the police should have accommodated her based on schizo-affective disorder after they left her room the first time, already cleared out the entire house, and called for back-up. **The safety risk our City complains about is illusory** and is a guise through which the City can dilute the ADA and Fourth Amendment protections that U.S. citizens have fought for over such a long time.

The position of San Francisco seems to be that given the regularity of police encounters with individuals with mental illness, that the police need more protection. I am amazed and surprised that the amount of protection both the 9th Circuit stated and we restated in this letter, is not objectively taken into account. Neither the social worker, nor the two police officers that left Miss Sheehan's abode were subject to any realistic safety threat. I carefully read the paragraph of your letter cited from Petitioner's (San Francisco) Brief, p. 34, which states that the City and County of San Francisco is not asking the court to say that police officers are never subject to scrutiny under Title II, [of the American Disabilities Act]. But that is what is happening in this case; specifically, where the individual has been isolated - all other residents have been

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removed from the building - and police trained in these circumstances, according to a police expert's testimony at the trial court (whether under CIT training or otherwise), are on their way. This means the City does not want the ADA to apply in this situation. In any event, on behalf of PWDF and our target service population - those with mental and/or developmental disabilities - we again request that you withdraw your petition/brief from before the Court because your reasons are not what you allege; specifically, to save taxpayers money and to alleviate a threat which is already alleviated as back-up police are on their way to take her to the hospital. Instead she was shot, charged with criminal offenses and as of now permitted to let a jury decide if the facts warrant a reasonable accommodation(s) based on her psychiatric disability.

Thank you for your attention to this matter and we hope your behavior as an elected/appointed official of the City and County of San Francisco will take into account the diverse population in this area of persons with severe mental and/or developmental disabilities who have, based on stigma alone, been the victims of too much violence and intimidation, all of which amounts to discrimination. Whether it is the work place, housing, public accommodations or as in this case, the San Francisco Police Department, it is our belief that your position is misguided.

Sincerely,

/s/

Steven Bruce
Legal Director

Cc: President of the Board of Supervisors, London Breed
Supervisor Eric Man
Supervisor Mark Farrell
Supervisor Julie Christensen
Supervisor Katy Tang
Supervisor Jane Kim
Supervisor Norman Yee
Supervisor Scott Wiener
Supervisor David Campos
Supervisor Malia Cohen
Supervisor John Avalos
Greg Suhr, Chief of Police