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## ***LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH***

**By Don Hays**

Month of February – 2024

# **LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH**

## **Month of February - 2024**

### **Taylor v. City of Chicago, 2024 IL App (1st) 221232, January 5, 2024.**

**THE CASE:** A man was having a mental health crisis. The police transported the man to a hospital but did nothing further to protect the wife of the man from the man's violence. Were the police liable when the man later killed his wife?

**FACTS:** Officers responded to a 911 "domestic" call at the apartment of Vanessa Taylor (Vanessa) and James Thomas (Thomas). Thomas was having a mental health crisis. A witness informed the police that Thomas, Vanessa's live-in boyfriend, had been walking around with swords and knives. Additionally, the Officers learned that Thomas was starting grease fires and making Molotov cocktails inside his apartment. An Officer admitted that he had no doubt that Thomas was dangerous. Once inside the apartment, the Officers tried to detain Thomas, but he resisted. The officers told Thomas to stop resisting and an officer tased him, but it did not immobilize him. Thomas then went into the kitchen and retrieved a sword and knife, at which point the officers tackled and handcuffed him. After realizing that Thomas had cut the gas line in the kitchen, the police evacuated the apartment building.

The officers then transported Thomas in a squadrol to a local hospital. [He was transported in a squadrol instead of an ambulance because he was struggling with the officers.] At some point during the transport, Thomas maneuvered his handcuffs from the back to the front of his body. Upon exiting the squadrol, Thomas lunged out, knocking down and injuring an officer. It took four officers to re-cuff Thomas's hands behind his back. Once inside the hospital, four officers and medical staff worked together to strap Thomas's legs and arms to the bed. Thomas was given then given an antipsychotic sedative, was administered a mental health examination by a physician, and discharged several hours later. The Officers did not arrest Thomas because they did not believe Thomas possessed the requisite mental state for criminal liability due to his apparent mental health crisis. However, an Officer admitted that Thomas's behavior was, at least, reckless. The Officer also conceded that he was allowed to arrest people with mental illnesses and agreed that it would have been unsafe for Vanessa to return to the apartment with Thomas that night. Some 25 hours after the police first responded to the 911 call, Thomas killed Vanessa in their apartment.

The Estate of Vanessa sued the City of Chicago for the wrongful death of Vanessa. A jury found that Vanessa's death was caused by the CPD's breach of its duty to protect Vanessa under the Illinois Domestic Violence Act of 1986 (the Act) (750 ILCS 60/101 et seq.) and awarded \$3 million in damages in favor of the Estate. The trial court denied the City's motion for a judgment notwithstanding the verdict (JNOV) and for a new trial, and the City timely appealed.

**ISSUE:** Were the City Police Officers (and the City) properly held liable for the death of Vanessa?

**ARGUMENT:** In this appeal, the City first contended that the trial court erred by not granting its motion for judgment notwithstanding the verdict because the Estate failed to offer sufficient evidence to establish the elements of a cause of action under the Act.

**THE LAW:** To establish liability under the Illinois Domestic Violence Act of 1986, a plaintiff must show (1) she is a person in need of protection under the Act, (2) the statutory law enforcement duties owed to her were breached, (3) these duties were breached by the willful and wanton acts or omissions of law enforcement, and (4) such conduct proximately caused plaintiff's injuries.

**SUB-ISSUE #1:** Was Vanessa a person in need of protection under the Act?

**THE LAW:** Under the Act, law enforcement officers "shall immediately use all reasonable means to prevent \*\*\* abuse, neglect, or exploitation" when they have "reason to believe that a person has been abused, neglected, or exploited by a family or household member." 750 ILCS 60/304(a).

**ARGUMENT:** The City contended that, under these provisions, an abuser's conduct toward a victim must be knowing or reckless. According to the City, the officers responding to Vanessa and Thomas's residence had no reason to believe that Vanessa was an abused person under the Act because Thomas was suffering from a mental health crisis and therefore lacked the necessary mental state to commit "abuse" under the Act.

**FINDINGS:** The appellate court held that although the evidence in this strongly indicated that Thomas was suffering from an acute mental health crisis, it also supported a finding that he acted knowingly or recklessly towards Vanessa and that his actions satisfied the definition of “abuse” under the Act. According to the Court, the City's attempt to avoid liability under the Act based on its officers’ perception that Thomas's actions were not criminal was entirely at odds with the purpose of the Act and its mandate that law enforcement officers, among other things, take all reasonable steps to protect victims of domestic violence. The Court rejected the City's position that, once it decided to treat Thomas not as a criminal but a person in a mental health crisis, it was absolved of its duty to take reasonable steps to protect Vanessa under the Act. According to the Court, nothing in the Act supported the City's zero-sum game approach to domestic violence committed by one in a mental health crisis. The protections afforded under the Act to victims of domestic abuse did not depend on the mental health status of their abusers. Therefore, the Court rejected the City’s argument that Vanessa was not in need of protection under the Act because Thomas lacked the ability to form a criminal intent sufficient to justify his arrest and conviction for domestic abuse.

**SUB-ISSUE #2:** *Were the statutory law enforcement duties owed to Vanessa breached?* (Or to put it another way, *could the City be held liable even if the police were no longer investigating domestic violence when Vanessa was murdered?*)

**THE LAW.** In *Lacey v. Village of Palatine*, 232 Ill. 2d 349, (2009), the Illinois Supreme Court held that, because the duty imposed on police officers under the Act is not a general ongoing duty to victims of domestic violence, any duty the officers owed to the victims ended before the eventual death of the two victims, which occurred almost two months after the officers’ initial contact with them. It reasoned that, if the contrary result was reached, then it “would create a situation where once officers were aware of the potential for violence, they would remain liable for the prevention of that violence for an indefinite period of time.”

**ARGUMENT:** The City argued that, as in *Lacey*, at the time Vanessa was murdered, the police in this case were no longer involved in investigating domestic violence. Therefore, it should not be held liable under the Act.

**FINDINGS:** The Court of Appeals responded by noted that the City’s argument might have been valid had the Estate argued that the officers failed to enforce the Act at the time Vanessa was murdered. However, that was not the Estate’s argument. Rather, the Estate argued that the police violated the Act by simply dropping Thomas off at the hospital and failing to take any measures to prevent Thomas from subsequently harming Vanessa. With this argument, the Court agreed. The Court declared that the City's liability was based on its failure to take reasonable steps to protect Vanessa at the hospital, not its failure to protect Vanessa on the date of her death.

**SUB-ISSUE #3:** *Were the Officers’ acts and omissions willful and wanton?*

**FINDINGS:** According to the Court, the evidence in this case was sufficient for the jury to find that the officers’ conduct was willful and wanton. The Act required that the officers “shall use all reasonable means to prevent further abuse” and specifies seven nonexclusive means of doing so (750 ILCS 60/304(1)-(7)). The officers exercised one of these options by taking Thomas to the hospital for an evaluation and by taking weapons away from him (id. § 304(a)(2)). However, the officers failed to use “all reasonable means” to prevent harm or to fulfill their statutory duty under the Act in several critical aspects. Evidence in the record demonstrated that the Officers did not fully inform the hospital of Thomas's violent behaviors that they witnessed, did not remain in the hospital long enough to find out the results of the mental health evaluation, did not take any steps to ensure that paperwork to civilly commit Thomas was completed by someone, and did not wait to determine whether any further action on their part was required to protect Vanessa in the event that Stroger Hospital medical staff decided not to civilly commit Thomas. According to the Court, it was within the purview of the jury to determine that the officers did not fulfill their duty to Vanessa given the circumstances. [This they did to the tune of \$3 million.]

**SUB-ISSUE #4:** Did the Estate prove that the conduct of the Officers was a substantial factor in Thomas killing Vanessa?

**FINDINGS:** The Court found that the officers’ failure to fulfill their duties under the Act was a substantial factor in bringing about Vanessa's death. The Court held that there was sufficient evidence introduced to support the jury's finding that the officers breached the duty they owed Vanessa. Moreover, the jury could have reasonably concluded that, absent the officers’ breach of their duty to Vanessa, Thomas would not have been able to kill her. If the officers had arrested Thomas, ensured that Thomas was civilly committed, or taken other reasonable steps to protect Vanessa, including, but not limited to, informing Vanessa of how to obtain an order of protection and/or transporting her to a safe place, Thomas would not have had the opportunity to kill Vanessa. Therefore, the Court found that the actions of the Officers was a proximate cause of the death of Vanessa.

**CONCLUSION:** The appellate court affirmed the judgment against the City and its Officers.

## **QUIZ QUESTIONS FOR THE MONTH OF FEBRUARY – 2024**

### **Taylor v. City of Chicago, 2024 IL App (1st) 221232, January 5, 2024.**

1. By law, Illinois Law Enforcement Officers are required to use all reasonable means to prevent acts of domestic abuse of which they have become aware.
  - a. True.
  - b. False.
2. Thomas in this case was obviously undergoing a mental health crisis when the Officers became involved. Could such a person be classified as an abuser under the Illinois Domestic Violence Act of 1986?
  - a. Yes.
  - b. No.
3. In this case, the City argued that because Vanessa never asked the Officers for help, never obtained an Order of Protection, and specifically asked the Officers not to arrest Thomas, Vanessa was not “a person in need of protection” according to the Illinois Domestic Violence Act of 1986. Did this appellate court agree with that argument?
  - a. Yes.
  - b. No.
4. Pursuant to the Illinois Domestic Violence Act, law enforcement officers may be held liable for failing to enforce the provisions of that Act if their conduct is found to be willful and wanton. The Estate argued that it was reasonable for the jury in this case to have found that the Officer’s actions in leaving Thomas at the hospital without taking any additional steps to protect Vanessa constituted willful and wanton conduct. The appellate court disagreed with this argument.
  - a. True.
  - b. False.

## **QUIZ ANSWERS AND DISCUSSION FOR THE MONTH OF FEBRUARY – 2024**

### **Taylor v. City of Chicago, 2024 IL App (1st) 221232, January 5, 2024.**

1. By law, Illinois Law Enforcement Officers are required to use all reasonable means to prevent acts of domestic abuse of which they have become aware.  
  
**a. True.** Under the Illinois Domestic Violence Act of 1986, law enforcement officers “shall immediately use all reasonable means to prevent \*\*\* abuse, neglect, or exploitation” when they have “reason to believe that a person has been abused, neglected, or exploited by a family or household member.” 750 ILCS 60/304(a)
2. Thomas in this case was obviously undergoing a mental health crisis when the Officers became involved. Could such a person be classified as an abuser under the Illinois Domestic Violence Act of 1986?  
  
**a. Yes.** Despite the City’s argument that Thomas could not have violated the Illinois Domestic Violence Act due to his mental health condition, the appellate court declared that even a person suffering a mental health crisis can be classified as a Domestic Violence Abuser.
3. In this case, the City argued that because Vanessa never asked the Officers for help, never obtained an Order of Protection, and specifically asked the Officers not to arrest Thomas, Vanessa was not “a person in need of protection” according to the Illinois Domestic Violence Act of 1986. Did this appellate court agree with that argument?  
  
**b. No.** The appellate court declared that, in fact, Vanessa was a person in need of protection under the Act despite the City’s arguments to the contrary.
4. Pursuant to the Illinois Domestic Violence Act, law enforcement officers may be held liable for failing to enforce the provisions of that Act if their conduct is found to be willful and wanton. The Estate argued that it was reasonable for the jury in this case to have found that the Officer’s actions in leaving Thomas at the hospital without taking any additional steps to protect Vanessa constituted willful and wanton conduct. The appellate court disagreed with this argument.  
  
**b. False.** The Court concluded that under the facts of this case, it was reasonable for the jury to find that the failure of the Officers to act to protect Vanessa did, in fact, constitute willful and wanton conduct.