



Carol Roessler
STATE SENATOR

September 13, 2001

Senator Judy Robson
15 South State Capitol
Madison, WI 53707

NO

Dear Senator ~~Robson~~ *Judy*:

Last week we had a conversation regarding a bill I will be introducing relating to the notification of mental health records to law enforcement in certain situations. Specifically, this bill would allow mental health professionals to discuss a client's case with law enforcement should that client present a situation that is harmful to him- or herself and/or others.

Enclosed you will find a copy of the co-sponsorship memo, the bill, a press release and newspaper articles illustrating the need for this legislation.

Your attention to this issue is greatly appreciated. If you are interested in signing onto the bill or have any questions, please feel free to contact my office.

Sincerely,

A handwritten signature in cursive that reads "Carol".

CAROL ROESSLER
State Senator
18th Senate District

CR/srj/cover ltr-men hlth note info

TO: Members of the Legislature

FROM: Senator Carol Roessler

DATE: May 7, 2001

RE: Co-sponsorship of LRB-2272/3, relating to release of treatment records of an individual without consent to a law enforcement officer under certain circumstances

I will be introducing legislation that will allow law enforcement agents to have access to the health records of individuals, who have mental health problems, in instances where that information would be pertinent to protecting the individual or other people involved in a situation from physical harm.

The legislation was requested by Chief David Erickson of the Oshkosh Police Department in response to a situation that ended tragically. In August of 1998, the police department responded to a request by an individual's mental health case worker to stand by at his house while his wife retrieved her personal belongings. When the police arrived at Mr. Pagel's house, the only information they had regarding Mr. Pagel was from previous encounters.

When the police approached Mr. Pagel's door, Mr. Pagel fled down to the basement with a knife tied around his wrist. Trapped in the basement with a very dangerous and uncontrollable Mr. Pagel, the officers acted in defense and fired shots, which eventually killed Mr. Pagel.

Had the department known previous to the encounter that Mr. Pagel was paranoid of police, officers would have been able to collaborate with the mental health worker to coordinate a more appropriate and safer strategy of how to proceed, and Mr. Pagel would still be alive today.

The intent of this legislation is to provide to law enforcement pertinent information only when the potential for an emergency exists – in other words, on a need to know basis only.

The bill is attached for your review. If you are interested in signing onto LRB-2272/3, please contact Senator Roessler's office at 266-5300 by **Tuesday, May 29, 2001**.

FOR IMMEDIATE RELEASE

May 9, 2001

Contact: State Senator Carol Roessler at (608) 266-5300

Proposal Aimed at Assisting the Police

Roessler proposes easing restrictions on confidentiality in crisis situations

Madison... State Senator Carol Roessler (R-Oshkosh) announced that she is introducing legislation that will ease the restrictions on the confidentiality laws mental health caseworkers encounter when the police become involved with their clients. Senator Roessler drafted the legislation at the request of Chief David Erickson of the Oshkosh Police Department in response to a situation that ended tragically.

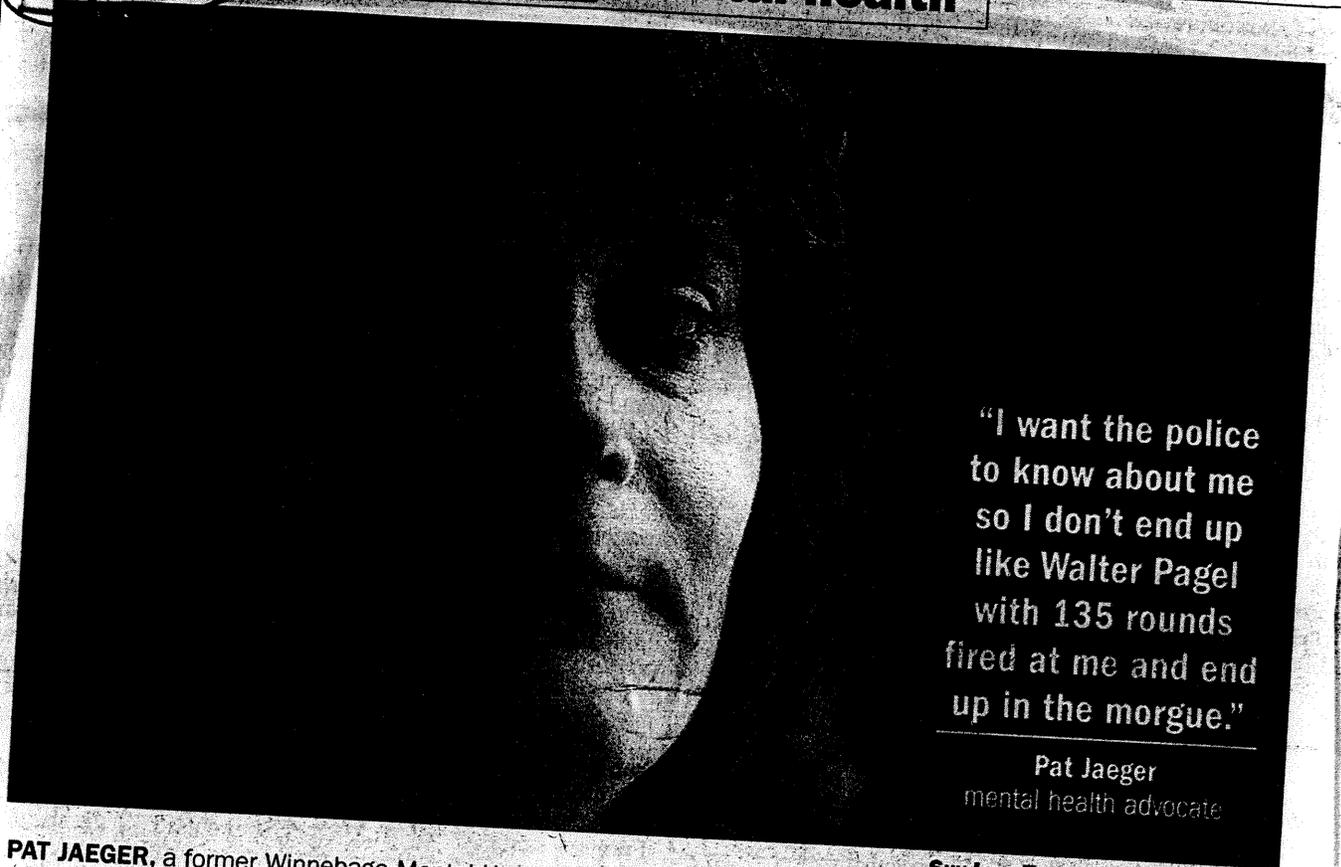
Specifically, the legislation would allow law enforcement agents to have access to the mental health records of individuals in instances where that information would be pertinent to protecting the individual or other people involved in a situation from physical harm.

“Law enforcement agents are charged with the responsibility of maintaining safety and order in our communities,” said Roessler. “While I firmly believe in an individual’s right to privacy, I also recognize that it is difficult for the police to fulfill this duty if they are not fully informed to all factors involved in a particular situation.”

The legislation is in response to the tragic death of Mr. Walter Pagel, which could have been prevented had the Oshkosh Police Department been able to collaborate efforts with his mental health case worker to coordinate a more appropriate and safer strategy of how to proceed.

“Chief Erickson suggested this change to more effectively provide all parties with appropriate assistance in crisis situations,” said Roessler. “I think our proposal strikes a necessary balance for the benefit of all.”

The intent of this legislation is to provide law enforcement pertinent information only when the potential for an emergency exists – on a need to know basis only.



"I want the police to know about me so I don't end up like Walter Pagel with 135 rounds fired at me and end up in the morgue."

Pat Jaeger
mental health advocate

PAT JAEGER, a former Winnebago Mental Health patient, now works as a mental health advocate. **SHU-LING ZHOU/OF THE NORTHWESTERN**

COMMITMENT

Police cite growing emergency mental commitment cases

By **KARL EBERT**
OF THE NORTHWESTERN

A man barricaded in his south-side house threatens suicide. When police arrive, they seal off the street to eliminate distractions and ensure that his talk of suicide doesn't turn into acts of violence against others. Meanwhile, police negotiators begin working to get the man on the telephone, a first step in bringing the crisis to a peaceful resolution. After several hours, gentle words and promises of safety and help per-

INSIDE

- **Police, local advocates** seek changes to confidentiality law.
- **What happens** when police get a call? **Page A5**

suade the man to leave his residence. He is taken to Mercy Medical Center or another hospital for psychiatric evaluation. Such situations, leading to emergency mental commitments of up to 72 hours, are becoming all too common for the Oshkosh Police

Department. Unanswered is whether threats of suicide, standoffs with mentally unstable people, and people threatening to harm others are signs of more people having mental health crises, or an indication of greater awareness of the needs of people in crisis. The number of those cases handled by Oshkosh police is growing. Since 1998, calls to police for emergency mental health commitments have increased nearly 50 percent.

COMMITMENT, PAGE A5 ▶

of mental illness and an want attention and don't know

Commitment: 5.1 per week

FROM PAGE A1

In 1998, the department handled 177 such commitments, averaging 3.4 calls per week. Last year, that number jumped to 264 calls, or an average of 5.1 per week.

Depending upon the day and staffing, a call for an emergency commitment can be a substantial drain on police resources.

While the increase is not prompting a call for more officers, it underscores the need for additional training on mental health issues and practices, Oshkosh Police Chief David Erickson said.

"It's getting to be an almost daily occurrence," he said. "When I saw those numbers, it surprised me and made me think maybe it was time for us to do some additional training."

The last departmentwide training was about three years ago. New officers are trained as part of their 14-week field training program, and with the current numbers are likely to have had some hands-on experience within the 14 weeks, Erickson said.

"The end goal is to be able to more effectively and appropriately deal with crisis situations," he said.

While police know they're dealing with more mental commitment calls, police officials are hard-pressed to say why the numbers grew at a time of general prosperity and in a city with a growing, but not exploding, population.

"All we know is we're dealing with more of them. There are more people that are having problems and we're just picking up the pieces and taking them to the hospital," said Capt. Harold Graves, head of the department's crisis response team.

It also is hard to know how many people make up those calls and the extent to which officers are going to the same addresses time and again.

The department doesn't track those figures, and Winnebago County, which maintains the dispatch records, will not release addresses, citing confidentiality rules that protect the mentally ill.

That leaves only speculation and first-hand observa-

tion.

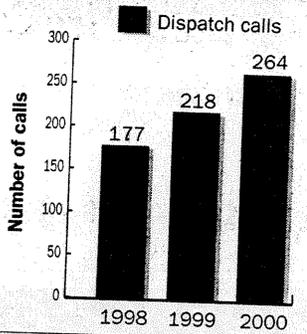
Pat Jaeger, an Oshkosh mental health advocate, said it is a mistake to assume the increase is the result of police repeatedly dealing with the same person.

"Sometimes it's the same address, but a lot of times it's a new location that I don't recognize," said Jaeger, who seldom is far from a police scanner.

At the same time, the increased numbers of calls may not be a sign of more mentally ill city residents, said Terry Boudreau, a mental health crisis worker with the Winnebago County Department of Human Services.

Perhaps more likely, Boudreau said, is a growing understanding of mental illness and an

Oshkosh Police Department calls for mental commitment are on the rise:



NORTHWESTERN ART
Source: Oshkosh Police Department

Police take threats seriously

FROM STAFF REPORTS

Of 264 calls for emergency commitments handled by Oshkosh police last year, only a fraction led to full 72-hour hospital stays for mental health observation and diagnosis.

Even fewer led to a person's long-term commitment.

So what happens when police get a call?

First, officers are trained to take all threats of suicide or harm to others seriously — either of those threats are considered grounds to take the person to Mercy Medical Center or another mental health facility for psychological evaluation.

Once there, a risk assessment is done to determine the

likelihood that the person poses a risk to himself, herself or others. About three-fourths of the people transported for evaluation are released or jailed, if they committed a crime, within 48 hours of arrival at the hospital.

If a longer stay is deemed necessary, state law requires a hearing before a court commissioner within 72 hours to determine if there is probable cause the person suffers from a treatable mental illness and is dangerous. If the court commissioner finds probable cause, a commitment hearing, including testimony by two mental health professionals, must be held before a circuit court judge within the next 14 days.

increased willingness to seek help for friends and family.

"If people are saying they're suicidal, it's being taken seriously," Boudreau said. "We're really seeing a lot of people aren't trying to hide their (family members' and friends') problems."

When those people make calls, police are taking the situations equally seriously.

"An officer doesn't want to be accused of not doing something and just walking away and having something happen later," Erickson said. "I think they want to err on the side of caution."

Jaeger, however, said crisis workers may be a little too quick to involve police in situations that do not require emergency commitments.

Police are called whenever the crisis intervention hot line receives a call from someone threatening suicide or violence.

"I know they (police) are tired of dealing with this. I know there are people in more serious situations and aren't just people who want attention and don't know

where to go," she said.

But lack of knowledge about services for people with mental illnesses — and a fear or dislike of structured programs that monitor medication — often keep people who need help from seeking it, Jaeger said.

"A lot of mental health consumers out there don't know what services are out there," she said. "They don't want programs where you have to go to an office every day to get their medication because they're afraid of getting committed. And if you're afraid of getting committed, you have nobody else to turn to."

As a result, Jaeger said, desperate people spinning into mental illness "cry for help" by threatening themselves or others. And then police get involved.

"In a lot of cases, they're not mentally ill," Erickson said. "They're mentally stressed, and in some cases people see us as the last hope."

Karl Ebert: (920) 426-6688 or kebert@smgpo.gannett.com

OSN 5/19/01

EDITORIAL

More information critical for safety

A person's right to privacy should be indisputable. Indeed, as government agencies and Internet entities engage in tactics to accumulate more and more personal information, our individual privacy is at risk.

There are legislative efforts in the works to curtail information gathering and restore some privacy to our private lives.

But there is an issue where releasing private information could be a life-and-death matter. A strong case can be made to allow law enforcement officers to know about mental health issues when they respond to a disturbance.

Oshkosh police officers are called to more and more incidents that result in emergency mental commitments, according to a report in Sunday's Northwestern. Reporter Karl Ebert documented that during the past three years, police have witnessed a 49 percent increase in the number of calls that have resulted in emergency commitments.

... there is an issue where releasing private information could be a life and death matter. A strong case can be made to allow law enforcement officers to know about mental health issues when they respond to a disturbance.

Often, the calls involve a person with a history of mental illness that is unknown to officers.

Such was the case when Oshkosh police officers responded to a threatening situation at the home of Walter Pagel in 1998. The officers on the scene were unaware of Pagel's mental health history. Their efforts to subdue and remove Pagel from his house resulted in 135 "less-lethal" projectiles being fired at him. He subsequently died from injuries he sustained at the hands of the police.

It is impossible to know if the outcome would have been different if the officers had known that Pagel's mental illness was manifested by a fear of police. The confidentiality of patient records precluded officers from obtaining that information. But it is possible the officers and commanders would have used different tactics to diffuse the situation.

The Pagel case shows that the medical privacy of mentally ill people should not be absolute. When the police encounter a situation where public safety or officer safety is at risk, they should have access to pertinent medical information.

Erickson has raised the issue with legislators, and it's time for lawmakers to consider a law that would allow disclosure of information. Releasing the information is only part of the equation. State law also should require an enhanced level of training for officers so they know how to appropriately deal with individuals who have a mental illness.

Such a law and training could prevent another Walter Pagel case.

■ The Final Thought: Police officers should be able to access information about an individual's mental health condition when public safety is at risk.

5/7/01

Advocates seek changes to confidentiality law

By **KARL EBERT**
OF THE NORTHWESTERN

A growing number of calls to police for emergency mental health commitments, and the still-fresh memory of the death of Walter Pagel, are leading to a move for a change in state law to ease restrictions on what mental health case workers can tell police about their clients.

They come from different perspectives, but Police Chief David Erickson and mental health advocate Pat Jaeger are telling lawmakers a change in the rules is key to preventing situations like the 1998 standoff that led to Pagel's death.

Erickson said the inability of a case worker to talk about Pagel's mania — and particularly his deep fear of police — contributed to the standoff that led to Pagel's death.

Confronted at his door by a police officer, Pagel fled to the basement of his Jefferson Street home with a knife tied to his hand.

During the standoff, police fired 135 "less-lethal" projectiles at Pagel in an attempt to subdue him.

Pagel stopped breathing for about three minutes after being taken to Mercy Medical Center after the standoff, and remained in a semi-comatose state until his death from pneumonia and brain injuries 17 months later.

"Right now, they can't tell us

what the problems are — what demons are in peoples' heads — and that puts us at a disadvantage," Erickson said. "We need that information so we can effectively deal with them."

Jaeger, co-director of Visions Consumer Satisfaction Team, an Oshkosh mental health and disability advocacy, seconds Erickson's desire for a rule change.

Jaeger, who in 1990 was committed to Winnebago Mental Health Institute after being found not guilty by reason of a mental disease of a series of bomb scares, said the organization is looking into developing a release form clients can sign to authorize staff members to release information to police.

With growing statewide concern about maintaining patient confidentiality, developing a local system for releasing mental health information may be easier than trying to change state law, Jaeger said.

"I look at it from both a consumer point of view and from a professional point of view," Jaeger said. "There are good reasons for confidentiality, but you have to draw the line. I want the police to know about me so I don't end up like Walter Pagel with 135 rounds fired at me and end up in the morgue."

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Pagel death spurs confidentiality bill

By KARL EBERT OF THE NORTHWESTERN

The death of a mentally ill Oshkosh man following a 1998 police standoff

may lead to changes in the amount of information mental health professionals can share with police about patients in crisis situations.

State Sen. Carol Roesler, R-Oshkosh, is sponsoring a bill that would allow case workers to share now-confidential treatment information with police officers negotiating with people threatening suicide or to harm others.

Oshkosh Police Chief



Roessler son is authorized to be absent from an inpatient mental health facility.

BILL, PAGE A6

Bill: About safety during crisis FROM PAGE A1

A draft version of Roesler's bill would allow treatment records to be made available to law enforcement officers in order "to facilitate communication and assist in restoring order" in cases in which a person is threatening suicide, harm to others, or is barricaded in a building.

"Number one, it's about safety in crisis situations," Roesler said. "It's about the safety of individuals that may harm themselves or others and giving police the tools that are necessary to give appropriate assistance in crisis situations."

Roesler, who this week will begin looking for co-sponsors for the bill, said the change in the law is a reasonable, balanced extension of the lessons learned in the Pagel incident.

Erickson could not be reached for comment Thursday, but in previous interviews said a lack of information about Pagel's mental state precipitated the standoff. Police had previous dealings with Pagel, but did not — and could not — know that he had developed a deep-seated fear of uniformed police officers that was worsened when he stopped taking medication for his mental

illness, Erickson said.

When officers appeared at Pagel's door to help Pagel's wife, Lois Pagel, retrieve her belongings, Pagel barricaded himself in the house, eventually retreating into the basement with a kitchen knife tied to his hand.

In the course of the standoff, police fired 135 rounds of less-lethal ammunition at Pagel in an attempt to disarm and subdue him.

Shortly after he was taken into custody, Pagel stopped breathing.

He remained in a semi-comatose state for 17 months until he died in January 2000.

Six officers were absolved of criminal negligence in Pagel's death by Milwaukee prosecutor Robert Donahoo, who was asked to investigate the case.

"The police would never have been put in the position they were in had they been able to access that information," Roesler said. "In very strong on confidentiality, but in this particular instance I think it (the proposed change) clearly balances the system for the protection of all."

Karl Ebert: (920) 426-6688 or kebert@smgpo.gannett.com

Records access sought

Information may have helped police, Pagel

By JIM COLLAR

OF THE NORTHWESTERN

Pat Jaeger of Oshkosh understands what Walter Pagel went through when police arrived at his door in 1998.

Eleven years ago, when she had serious mental health problems, she held police at bay with a weapon for several hours before finally surrendering.

After getting treatment, Jaeger became an advocate for mental health patients. She said she realized the problems Oshkosh Police faced when

"If they have some troubles and mental health workers are in a position to tell us about it, we could possibly save a life or the life of an officer."

David Erickson
Oshkosh police chief

attempting to take a mentally ill person into custody with little or no information about his or her condition.

While Jaeger said she thinks Oshkosh Police acted criminally in firing 135 rounds of less-than-lethal ammunition at the 69-year-old Pagel, she agrees that access to mental health records could have prevented the tragic outcome.

"I believe in confidentiality, but not when a person is a danger to themselves or others," Jaeger said. "If I ever got sick again, I would hope someone would tell the police before I became another Walter Pagel."

The Oshkosh Police Department wants changes in state mental health confidentiality laws because of the 1998 standoff with Pagel. Chief David Erickson said he's made some phone calls to raise the issue.

When police got to Pagel's home on Aug. 10, 1998, the only information they had about Pagel was from previous dealings with him, Erickson said.

Records: Guidance not available to officers

FROM PAGE A1

The department had some "hints" that Pagel was not taking his medication which could cause him to become violent, Erickson said. Officers, however, could not get any guidance on dealing with Pagel or more specific information on his illness from mental health case workers, the chief said.

State law prohibits mental health officials from releasing information about clients.

The police department didn't find out Pagel was severely paranoid about police until an inquest into his death last year, Erickson said.

"If we would have known that he was afraid of the police it would have raised a lot of red flags," Erickson said. "There would have been a whole different mindset."

Pagel was hunkered beneath his basement stairs with a knife around his wrist. He died 17 months later from injuries sustained from the less-than-lethal

Monday, a Milwaukee
y special prosecutor

announced that he would not charge the six police officers involved in the standoff.

Jaeger said she's been able to speak to patients from experience and act as a model for treatment after serving prison time and several commitments in Winnebago Mental Health Institute for mental illness.

Health care officials admitted that changing confidentiality laws could benefit law enforcement. At the same time, changing the laws would be difficult because opening records to any degree could risk the privacy of patients seeking help, they said.

Laura Flood, administrator of care and treatment facilities for the Wisconsin Department of Health and Family Services, said the law gives patients' rights more importance than the value that records could hold for law enforcement in other groups.

Under state law, treatment records for mental health can be accessed only with a signed release from the patient.

Courts order the release of documents to district attorneys

and police departments in some circumstances, but police cannot get immediate access in emergency situations, Flood said.

"There's a belief and a reality that diagnosis and treatment of mental health problems carries a stigma with it," Flood said. "I think that's been recognized legally. There are exceptional cases like there are in every law, but mental health really is a difficult issue."

Erickson said the safety of patients and officers should be compelling enough to breach the confidentiality barrier.

Mental health records could give police vital information on how certain situations should be handled, he said.

"There are other people out there like this," Erickson said. "If they have some troubles and mental health workers are in a position to tell us about it, we could possibly save a life or the life of an officer."

Jim Collar may be reached at (920) 426-6676.