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Lawyer: Beating was 'excessive'

Edgar Richard remains hospitalized after an incident at the jail; the investigation is ongoing and the Sheriff's Office says all the details are still being discovered.

BY TIM POTTER
The Wichita Eagle

Dozens of people have been interviewed in the investigation of an incident involving a Sedgwick County jail deputy that left a mentally ill inmate seriously injured, a sheriff's official said Friday.

The Feb. 15 altercation is still under investigation, and not all of those being interviewed saw the incident, sheriff's Maj. Jackie Stuart said.

But a lawyer representing the inmate, 59-year-old Edgar Richard, says an eyewitness told him that the deputy knocked Richard unconscious and continued to beat him.

The witness heard what sounded like bones breaking, said lawyer Larry Wall, a civil attorney who has been involved in other cases where county deputies or Wichita police have been accused of excessive force.

"I am convinced excessive force was used against Edgar Richard," Wall said.

But Stuart said Friday: "It's very dangerous, I think, to rush to judgment on cases like this when the full story has yet to be discovered. I'm sure Mr. Wall hasn't talked to all the witnesses.

"That's what we're attempting to do, is put the entire picture together and make a determination. This is an ongoing investigation. There's a lot of things that we can't reveal right now."

But Wall said, "I have not talked to all the witnesses, but of course the Sheriff's Department refuses to identify the employees involved.

"It does not take 25 days to investigate a battery... with all witnesses captive," Wall said.

Multiple witnesses say Richard's cell was equipped with a video camera, so electronic evidence should be available, he said.

But Stuart said, "There is no recording of this incident." She said she couldn't elaborate.

The Sheriff's Office has said that Richard was injured Feb. 15 during an altercation with a deputy after Richard became unruly and tried to leave his cell. The deputy, whose name has been withheld by the Sheriff's Office, has been suspended with pay.

Richard's injuries left him in intensive care, breathing with the help of a ventilator, Wall said.

In a Feb. 22 court document, Richard's public defender, Nika Cummings, said he "was severely beaten by a Sedgwick County detention officer, causing multiple breaks in defendant's jaw and head injuries."

"His jaw is wired shut, after surgery, he has a tracheotomy, is attached to a respirator and is heavily sedated. He will require several more surgeries," Cummings said in the filing.

She said Richard's condition had been upgraded to fair last week.

On Wednesday, the Sheriff's Office agreed to give Richard's family more hospital visitation time. During a visit, Richard's son held his hand, and Richard "was able to recognize him and smile," Wall said.

Battery convictions

Records show that Richard, who has been treated for schizophrenia, has been convicted of aggravated battery of a law enforcement officer and battery against a correctional officer, both felonies. The incidents occurred on consecutive days in October 2006.

One of the convictions stemmed from an incident in which a Wichita police officer reported that Richard threw a knife at her, striking her in the stomach but not injuring her, according to a public document from the Police Department.

The second conviction involved a correctional officer at the county jail, according to a public document from the Sheriff's Office. The document doesn't say how that incident occurred.

The detention deputy involved in the Feb. 15 incident with Richard was "bigger, stronger, younger and outweighed him by more than 80 pounds," Wall said. Richard was "vulnerable" and mentally ill, Wall said.

Another allegation

The Richard case isn't the only allegation of excessive force the Sheriff's Office faces. A Wichita woman, Julia Desmarteau, alleges in a state court lawsuit that sheriff's Deputy Daniel Oliver broke her elbow and wrist in an alcohol-breath-testing room at the jail in November 2004 after arresting her on suspicion of DUI.

Her lawsuit against Sheriff Gary Steed and county commissioners seeks \$355,758 in damages and is expected to go to trial in early April, said her attorney, Mark Schoenhofer.

Oliver, the deputy, alleges that Desmarteau tried to swat at him, but she denies it, Schoenhofer said.

"He twists her arm and pulls her out of the chair in one swift, jerking motion," causing her injuries, Schoenhofer said.

Desmarteau, in her 40s, is much smaller than Oliver, who is about 6 feet, 6 inches tall and 330 pounds, Schoenhofer said.

Despite her injuries, she was put in handcuffs and left in an isolation room without a toilet and had to urinate on the floor, Schoenhofer said.

Art Chalmers, a private attorney who is defending the county and the Sheriff's Office in the Desmarteau case, said in a statement Thursday: "Sedgwick County and the Sheriff's Office vigorously dispute Ms.

Desmarteau's allegations."

The statement said her allegations "were thoroughly investigated by the sheriff's Professional Standards Unit" and that although "her injuries are regrettable, the involved deputy's conduct was shown, in the investigation, to have been appropriate."

Multiple arrests

Richard had spent about 3 ½ months in jail before he was injured.

He was being held on an alleged probation violation and was awaiting a hearing to determine if he was mentally competent, said Mark Masterson, director of the Sedgwick County Department of Corrections.

Richard had been arrested Oct. 27 after allegedly carrying a concealed weapon -- a steak knife -- down a street and was released on bond from the jail that same day, Masterson said.

The next day, Oct. 28, Richard was arrested on suspicion of lewd behavior for allegedly exposing himself, a police report said. He again was released on bond from the jail.

Around the same time, he was admitted to Good Shepherd, a psychiatric

hospital, Masterson said. But a couple of days later, the hospital staff contacted authorities and said they wanted Richard removed because he was threatening staff and patients, Masterson said.

Richard was arrested again on Oct. 31 and put in jail, remaining there until the Feb. 15 incident, Masterson said.

Comcare, the county's mental health agency, offers a treatment program aimed at helping to divert some mentally ill people from the jail. Jason Scheck, Comcare director of crisis intervention services, said he couldn't comment on whether Richard was eligible for the program.

The program is not for people with a history of violence, Scheck said.

The Feb. 15 incident is the subject of multiple investigations, involving the Sheriff's Department and the FBI.

Good person, just ill

Bonnie Hebb, a 63-year-old retired nurse, said she helped treat Richard off and on over about 19 years when he was a psychiatric patient at different treatment facilities. She last saw him around 2006, she said.

She brought him his medication and talked to him a lot.

"He just kind of touched my heart for some reason," she said.

"He's a very good person.... He just had this horrible illness."

Because of his schizophrenia, he sometimes had conversations with himself, she said. Because of his illness, he can be "pretty paranoid" and "pretty suspicious," she said.

And he could be "resistive," she said, especially if he wasn't taking his medication.

But in all the years Hebb dealt with Richard, she said, "I don't ever know him as being combative."

In a Feb. 25 interview with The Eagle, Undersheriff Robert Hinshaw gave this account of the Feb. 15 incident:

Two deputies and a nurse were delivering medications to a jail pod at about 9 p.m. and asked Richard whether he wanted to take his. When he indicated he wanted to, they opened his cell door, but a disagreement broke out over the medication.

"He started to get unruly and started to leave the cell," Hinshaw said.

As the deputy tried to prevent Richard from leaving, an altercation ensued and

the situation deteriorated "rapidly," Hinshaw said.

The deputy's injuries were minor, Hinshaw said.

Hebb, the former nurse, said she was upset when she learned that Richard had been seriously injured.

"I've talked to some of the other nurses that know him, and they're all... pretty angry about this happening to him."

As a nurse working in psychiatric units, she said, "I've seen a lot of security put down a lot of a mentally ill patients, and none of them have had to break a jaw."

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