

**In-Custody Death of Richard Hayes, Jr.  
Los Angeles County Sheriff's Department**

**Deputy Carlos De La Torre #622115  
Deputy Janet Huoth #524692  
Deputy Alex Valdivia #630214**

**J.S.I.D. File #21-0117**



**GEORGE GASCÓN**

**District Attorney**

**Justice System Integrity Division**

**September 20, 2022**

**MEMORANDUM**

TO: CAPTAIN ANDREW D. MEYER  
Los Angeles County Sheriff's Department  
Homicide Bureau  
1 Cupania Circle  
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION  
Los Angeles County District Attorney's Office

SUBJECT: In-Custody Death of Richard Hayes, Jr.  
J.S.I.D. File #21-0117  
L.A.S.D. File #021-02053-2928-145

DATE: September 20, 2022

The Justice System Integrity Division (JSID) of the Los Angeles County District Attorney's Office has completed its review of the March 21, 2021, in-custody death of Richard Hayes, Jr. (Hayes) involving Los Angeles County Sheriff's Department (LASD) Deputies Carlos De La Torre, Janet Huoth, and Alex Valdivia. It is our conclusion that the deputies used reasonable force under the circumstances and are not criminally responsible for Hayes' death.

The District Attorney's Command Center was notified of this in-custody death on March 21, 2021, at approximately 8:48 p.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by Los Angeles County Sheriff's Department (LASD) Lieutenant Scott Hoglund.

The following analysis is based on reports, recorded interviews, DVD recordings, photographs submitted, to this office by the LASD Homicide Bureau. JSID also reviewed and considered a Claim for Damages filed by the decedent's wife. No compelled statements were considered in this analysis. The deputies were not equipped with body worn video cameras.

**FACTUAL ANALYSIS**

Richard Hayes was 44 years old and struggled with schizophrenia and bipolar disorder. He took several psychoactive medications daily and was under the care of a psychiatrist. Sometimes his hallucinations intensified and he took a [REDACTED] injection to mitigate them.

On March 21, 2021, at approximately 2:30 to 3:00 p.m., Hayes went to his next-door neighbor's house. Hayes' neighbor, [REDACTED], told investigators that when he spoke to Hayes, Hayes appeared jittery, sweaty, and nervous. Hayes told [REDACTED] that Hayes "had not been himself lately," and that he was in his backyard yelling because he had been experiencing hallucinations. Hayes stated he had not been taking his medications and felt like he needed to see a doctor to get some help, so he would probably go check into a hospital that night. Hayes told [REDACTED] that he

would be gone for two to three weeks, so he asked ██████ to check on his family in case they needed anything. Hayes told ██████ he loved him and went home. ██████ did not see Hayes after that.

Investigators spoke to ██████ Hayes' wife. She said that Hayes worked the night shift and that on the day of the incident, Hayes returned home two hours into his shift—at 2:30 a.m.—explaining that he left work early because he could not concentrate. He planned to go to the hospital. ██████ left the house with their children at 5:15 a.m. When she returned home in the late afternoon, Hayes was home and his suitcase was packed. She called a couple of hospitals, but none had any beds available.

Shortly afterwards, Hayes went into the backyard to smoke. He began yelling and swinging his arms in the air as he talked about visions and spiritual topics. ██████ gave Hayes a ██████ injection to calm him down, but he began yelling louder, praying, and talking to himself. ██████ worried that he was becoming a danger to himself and advised Hayes that they needed to call 9-1-1. Hayes told her that he just wanted the voices out of his head and wished he did not cause distress to his family. At approximately 6:45 p.m., She called 9-1-1 and told the operator that Hayes was having a psychotic episode and feared he was a danger to himself.

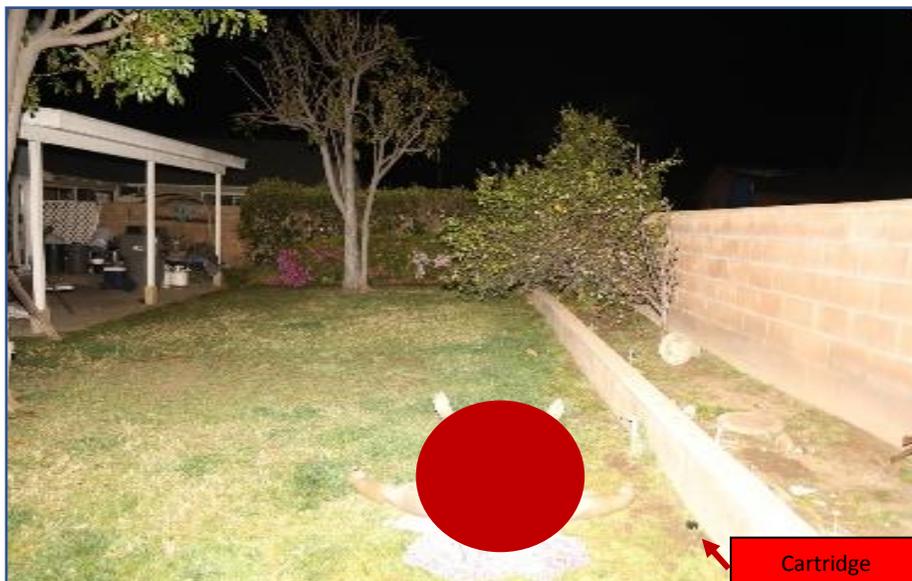
Deputies De La Torre and Valdivia were assigned to single man patrol units when they responded to the call for service at the Hayes' home. When the deputies arrived, ██████ met them at the door. She spoke with the deputies, explaining that Hayes needed psychiatric treatment and then led them to the backyard. Hayes was standing on the patio talking to himself and gesticulating. The deputies reassured him that they were there to help him, to which Hayes yelled, "Get the fuck out of here!" As De La Torre attempted to soothe Hayes, Hayes grew increasingly agitated. Hayes spoke of a green lantern and a sword and repeated to the deputies, "Get the fuck out of my house." De La Torre said, "OK, we're leaving."

De La Torre turned and began to walk back into the house and Hayes followed him yelling, "Get the fuck out! Get the fuck out!" The deputies repeated to him that they were leaving. Hayes swung his fists at De La Torre but did not strike him. Hayes then kicked De La Torre in the back of his leg. ██████ yelled, "Don't do that! Stop!" She grabbed Hayes' shirt and pulled him back.

The deputies continued walking through the home and towards the front door as Hayes followed, still repeatedly yelling, "Get the fuck out!" The deputies continually attempted to calm Hayes as they walked through the house. As the deputies reached the front door, Hayes kicked De La Torre in the leg a second time. Valdivia pulled out his Taser and fired it at Hayes. One of the darts struck Hayes in the chest and the other in his abdomen. Hayes ran out to the backyard.

De La Torre radioed for help, saying that he and Valdivia were involved in a fight. The deputies chased Hayes into the backyard. Hayes ran to the back of the yard and climbed up into a raised planter, as if he intended to climb over the back wall. Hayes fell faced down. De La Torre and Valdivia attempted to handcuff Hayes, but Hayes resisted. De La Torre asked Hayes to give De La Torre his right arm and Hayes struggled. De La Torre attempted to take control of Hayes'

right arm. Valdivia fired his Taser again, this time at Hayes' back.<sup>1</sup> This time, the darts did not puncture Hayes' skin. At that point, De La Torre was able to gain control of Hayes right arm and place a handcuff on his right wrist.



*Figure 1. This photograph depicts Hayes' back yard. The raised planter where Hayes collapsed is on the right side of the image. A spent Taser cartridge is near Hayes' right hand.*

Deputy Janet Huoth was also assigned to a single unit on the night of the incident. She heard De La Torre's emergent call stating that deputies were involved in a fight in the backyard of the residence. She drove to the address and went to the backyard where she saw Hayes lying on his stomach in the raised planter. De La Torre had one of Hayes' hands cuffed while Valdivia stood by holding a Taser. Hayes' left hand was under his body and the deputies asked Huoth to help them handcuff Hayes. With all three deputies working together, they were able to get Hayes' left hand behind his back. Due to his size, it took three handcuffs to connect one wrist to the other.

As soon as the handcuffs were connected, De La Torre rolled Hayes onto his side. De La Torre saw that his face was turning blue and he had stopped breathing. De La Torre instantly removed the handcuffs, began to perform CPR on Hayes and continued CPR until Los Angeles County Fire Department deputies arrived and assumed medical care. The paramedics pronounced Hayes dead at the scene.

## **LAWSUIT**

On November 19, 2021, ██████ filed a lawsuit against the County of Los Angeles and "Involved Los Angeles County Sheriff's Deputies." The lawsuit asserted that "shortly after their arrival, deputies tased Mr. Hayes multiple times until he fell forward onto his stomach." The Taser

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<sup>1</sup> Both deputies, interviewed separately, told investigators that Valdivia deployed his Taser for the second time as Hayes was laying on the ground struggling with De La Torre. ██████ told investigators that Hayes was tased as he attempted to climb the back wall.

Information Report for the Taser used in this incident confirms that the Taser was fired twice on March 21, 2021: the first time for 18 seconds and less than a minute later for 17 seconds. This Taser report is consistent with the statements of all three witnesses.

The lawsuit states that a female deputy “forc(ed) her knee into the back of Mr. Hayes’ neck.” During her interview with investigators in the hours after the incident, ██████ initially told investigators that when she went to assist De La Torre and Valdivia, Huoth put her leg on Hayes’ neck. Moments later she indicated she was unsure where Huoth put her leg, telling investigators that Huoth “went on his head area.” Less than a minute later, ██████ said that Huoth put her knee on Hayes’ head. When investigators interviewed Huoth, she said she was on Hayes’ left side trying to get Hayes’ left arm out from under his body in order to handcuff him. She did not say anything about whether her leg was on any part of Hayes’ body. During their interviews with investigators, neither De La Torre nor Valdevia mentioned Huoth putting any part of her leg on any part of Hayes’ body. Wherever Huoth put her knee during the incident, there is no evidence that Huoth’s actions contributed to Hayes’ death. The medical examiner found no damage to Hayes’ neck and found that Hayes did not die of asphyxiation.

The lawsuit further alleges that “██████ Hayes and her daughter, ██████, witnessed the incident.” This assertion contradicts ██████’s statement to investigators when she spoke to them approximately four hours after the incident. In her interview with investigators, ██████ told them that prior to the incident, her children were sitting on the couch downstairs. When the 9-1-1 operator told ██████ that deputies were coming, ██████ told her children to go upstairs to her daughter’s room, and they went upstairs. None of the witnesses saw any civilians in the house or in the back yard during the incident other than ██████ or Hayes.

## **AUTOPSY**

On March 23, 2021, Deputy Medical Examiner Doctor Kevin Young conducted an autopsy on Hayes’ body.

Dr. Young found “no visible fatal trauma” during the autopsy. The doctor discovered puncture wounds on Hayes’ left lower chest and abdomen consistent with dart wounds from a Taser. Dr. Young reported that although Hayes was struck by the Taser close to the time his heart stopped, the doctor reasoned that because Hayes was not incapacitated when he was struck by the darts, the Taser was not effective and therefore did not stop Hayes’ heart. He went on to say that the darts struck Hayes below his heart, which decreases the risk of the Taser inducing heart arrhythmia. The doctor added that there is “no consensus in the literature on whether (Tasers) pose a significant risk for induced cardiac arrhythmia when deployed reasonably.” Dr. Young did not see puncture wounds consistent with Taser darts on Hayes’ back.

Dr. Young concluded that Hayes had “many independent risk factors for sudden death.” These factors included: severe obesity; coronary artery disease; a toxic level of ██████ (an antidepressant used to treat bipolar disorder); chronic encephalopathy (brain degeneration); and schizophrenia, which the doctor said is also associated with sudden cardiac death.

Dr. Young concluded that Hayes' "many independent risk factors for sudden death... All of (which) involve physiologic and/or chemical processes which cannot be seen or evaluated by autopsy." Therefore, Dr. Young could not determine the cause and manner of Hayes' death.

## LEGAL ANALYSIS

A police officer may use reasonable force in making an arrest, preventing an escape, or in overcoming resistance. Penal Code § 835a. Reasonableness is judged from the perspective of a reasonable officer at the scene considering the circumstances surrounding the use of force including: (1) whether the suspect poses an immediate threat to the safety of the officers or others, (2) whether the suspect is actively resisting arrest or attempting to evade arrest by flight, and (3) the severity of the crime at issue. *Graham v. Connor* (1989) 490 U.S. 386.

In evaluating whether a police officer's use of force was reasonable, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. "[T]he 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." *Graham, supra*, at 396; see also, *Scott v. Harris*, (2007) 550 U.S. 372 (reaffirming the *Graham* reasonableness analysis for "use of force" cases in effectuating an arrest or "seizure" of a person). Finally, "[T]he calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments -- in circumstances that are tense, uncertain, and rapidly evolving -- about the amount of force that is necessary in a particular situation." *Graham, supra* at 396-397.

Courts have also held that placing a person wearing handcuffs in a prone position is reasonable where the person had violently resisted arrest. See, *Mayard v. Hopkins* (8<sup>th</sup> Cir. 1977) 105 F.3d 1226; *Price v. County of San Diego* (S.D. Cal. 1998) 990 F.Supp 1230.

The evidence presented in this investigation shows the officers used reasonable force in detaining Hayes.

When the officers arrived, they assessed the situation with [REDACTED] before approaching Hayes. When they confronted Hayes in the backyard, neither deputy had any weapons drawn. De La Torre explained to Hayes that they were at his house to help him. Hayes responded angrily, loudly, and with profanity. When Hayes screamed at the deputies to leave, they turned and walked back to the front door. Hayes swung his fists at De La Torre and kicked him, but deputies' response was to continue towards the door. Only after Hayes kicked De La Torre on the leg a second time did Valdivia retrieve his Taser and use it against Hayes. This use of less lethal force in defense of his partner was reasonable considering Hayes physically assaulted De La Torre twice.

The Taser had no apparent effect on Hayes except to cause Hayes to flee out the door to the backyard and attempt to climb the back wall. The deputies reasonably attempted to detain Hayes because he committed the crime of assault against De La Torre, because he was still presumably a threat to himself, and because he had exhibited irrational and violent behavior. The deputies

had no way of knowing if Hayes would act violently towards others if he escaped or jumped into the neighbors' back yard.

Valdivia's decision to deploy the Taser a second time was reasonable considering that Hayes was still resisting detention and was not safely restrained. It should be noted that although Valdivia fired the Taser a second time, the darts did not puncture Hayes' skin and therefore the second shot was ineffectual and could not have contributed to Hayes' death.

As soon as the deputies were able to handcuff Hayes, they turned him onto his side. At that point they saw for the first time that Hayes was in medical distress. They immediately released the handcuffs from Hayes and initiated CPR.

Finally, the medical examiner did not conclude that the deputies' actions caused Hayes' death.

Based on the evidence, the deputies' actions were objectively reasonable. From the moment they arrived, they assessed the situation with [REDACTED], they dealt with Hayes calmly and respectfully, they attempted to de-escalate the tension by leaving when Hayes insisted that they go. Both deputies ignored Hayes when he apparently attempted to punch De La Torre and they decided not to react the first time Hayes kicked De La Torre. Only when Hayes kicked De La Torre a second time did the deputies take action to subdue him. When the deputies made the decision to use force, they reasonably decided to use less lethal force—the Taser. Given these facts, their use of force was objectively reasonable.

## **CONCLUSION**

The force the deputies used to detain Hayes was objectively reasonable and they are not criminally responsible for Hayes' death.