

In-Custody Death of Miguel Ramirez
South Gate Police Department

Officer Adam Cook, #10141

Officer Juan Gonzalez, #10114

J.S.I.D. File #15-0096



JACKIE LACEY

District Attorney

Justice System Integrity Division

February 16, 2017

MEMORANDUM

TO: CHIEF RANDY DAVIS
South Gate Police Department
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CAPTAIN STEVEN KATZ
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FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: In-Custody Death of Miguel Ramirez
J.S.I.D. File #15-0096
S.G.P.D. File #15-01370
L.A.S.D. File #015-00008-3199-499

DATE: February 16, 2017

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 10, 2015, in-custody death of Miguel Ramirez. It is the conclusion of this office that there is insufficient evidence to prove South Gate Police Department (SGPD) Officers Adam Cook and Juan Gonzalez committed the crime of involuntary manslaughter based on the failure to perform a legal duty pursuant to Penal Code section 192(b). Further, it cannot be proven beyond a reasonable doubt that Officers Cook and Gonzalez used excessive force in arresting Ramirez. For the reasons set forth below, this office declines to initiate criminal proceedings.

The District Attorney's Command Center was notified of this in-custody death on February 11, 2015 at approximately 12:15 a.m. The District Attorney Response Team did not respond to the scene because there were no civilian witnesses available at the time for an interview nor was there a crime scene for a walk-through.

The following analysis is based on reports, witness statements, and audio/visual recordings submitted to this office by Los Angeles Sheriff's Department (LASD) Homicide Bureau Detectives Joe Espino and Robert Kenney. The voluntary statements of Officers Adam Cook and Juan Gonzalez were also considered in this analysis.

FACTUAL ANALYSIS

On February 10, 2015, at approximately 8:44 p.m., SGPD Officers Adam Cook, Juan Gonzalez, Chris Vajravukka, and Eder Vergara responded to [REDACTED] in the City of South Gate to assist the Los Angeles County Fire Department with a call of an uncooperative subject believed to be under the influence of methamphetamine.

Upon their arrival, the officers observed the subject, later identified as Miguel Ramirez, acting erratic, nervous, anxious and agitated. Ramirez displayed objective symptoms of being under the influence. Paramedics transported Ramirez to PIH Health Hospital for a medical evaluation.¹ Cook followed EMT personnel in his patrol vehicle as they made their way to the hospital.² Upon arrival, Ramirez released himself from the gurney and refused medical treatment. Cook and Gonzalez determined Ramirez was under the influence of methamphetamine and placed him under arrest for being under the influence of a controlled substance.³ Ramirez physically resisted the officers' efforts to place him in a patrol vehicle and the officers subsequently hobbled Ramirez in an attempt to take him into custody. Following a several minutes long struggle to get Ramirez into the patrol vehicle and single application of the Taser inside the patrol vehicle, the officers were finally able to secure Ramirez in the vehicle for transport to the SGPD jail. A few minutes later, Ramirez became unresponsive. The Downey Fire Department responded to Gonzalez's location and transported Ramirez via ambulance back to PIH Health Hospital where he was pronounced dead at approximately 10:27 p.m., the immediate cause of death being cardiac arrest.

Statement of [REDACTED]

[REDACTED] is Ramirez's sister. Ramirez had a chronic crystal methamphetamine drug abuse problem for the last ten years. Ramirez was not employed and had been released from jail a few weeks prior to the incident.⁴ Ramirez did not have a heart condition, but he would tell [REDACTED] that his chest hurt and was pounding when he was using drugs. Ramirez had been abusing methamphetamine for approximately 30 days straight prior to the date of his death.

On the evening of February 10, 2015, Ramirez's mother became concerned and feared for her safety because of Ramirez's odd behavior as a result of being on drugs. Ramirez's mother called [REDACTED] and her brother, [REDACTED], and asked them to come to the home where she and Ramirez resided together. Ramirez's mother advised them that Ramirez had been alone inside his bedroom all day and had only come out twice to use the bathroom. After talking to Ramirez and observing his behavior, [REDACTED] called 9-1-1 and asked for paramedics because Ramirez was using drugs and

¹ PIH Health Hospital is located at 11500 Brookshire Avenue in the City of Downey.

² Cook was driving a canine patrol unit, designated as the "city car", as such, Cook was not assigned to a specific area within the city but could roam throughout the entire city.

³ A violation of Health and Safety Code section 11550(a).

⁴ Ramirez was convicted of a violation of Penal Code section 666(a), a felony, on February 23, 2013 in case number TA126603 and was sentenced to 32 months state prison. Following his release, Ramirez was placed on supervised release under the supervision of the Los Angeles County Probation Department.

acting “funny.” Ramirez appeared paranoid and was hallucinating. He saw fire coming out of every place there was electricity, including electrical outlets. At one point, Ramirez thought his pants were on fire, so he put them in a bathtub and turned the water on to extinguish them.

Ramirez was physically stronger when he was on drugs. Because of his hallucinations about fire, Ramirez would at times grab his mother whenever she got near an electrical outlet and pull her away to “protect her.” These actions, coupled with his greater strength while he was under the influence of drugs, concerned ██████ that he might unintentionally hurt their mother.

Three days prior, on Saturday February 7th, Ramirez had also been on drugs and hallucinating, but this time Ramirez was much worse. On that day, ██████ had also called the paramedics who transported Ramirez to St. Francis Hospital for treatment where he was given a “shot of something so that he could detox.”⁵ ██████ and her mother had recently told Ramirez’s probation officer that Ramirez had drug problems. ██████ was hoping her brother’s probation officer would violate him and place him in a drug rehabilitation program, so that he could get help with his addiction.

LAFD Fire Captain Larry Tietgen

Tietgen responded to Ramirez’s residence at approximately 9:00 p.m. to the call of a possible drug overdose. The fire department arrived first, followed by an ambulance and SGPD shortly thereafter. Ramirez appeared agitated and did not want to be evaluated or treated by the fire personnel. After calming Ramirez down, they obtained Ramirez’s pulse rate and realized he needed medical attention because his pulse rate was well over 120 and much closer to 140 beats per minute. Ramirez appeared disoriented or hallucinating because he was hyperactive and tugging at his shorts. However, Ramirez never admitted to having hallucinations nor did he make any statements which would indicate he was hallucinating. Nonetheless, based on his observations and ██████’s statements, Tietgen formed the opinion that Ramirez was under the influence of drugs and required medical attention.

Ramirez repeatedly got agitated stating he needed to call his probation officer. Ramirez refused medical treatment and would intermittently become uncooperative. At one point, Ramirez was handcuffed for his own safety without force or incident. Ramirez was then placed on a gurney and inside the ambulance. Afterwards, Ramirez appeared to become cooperative and allowed paramedic Jonathan Sleigh to take additional vital signs. To maintain Ramirez’s cooperation, the handcuffs were removed. Tietgen asked the SGPD to have a unit follow the ambulance and fire units to the hospital for safety purposes, in case Ramirez became violent or combative.

⁵ ██████ called the paramedics on at least one prior occasion in 2015, and called two or three times in 2014 for the same reason.

LAFD Paramedics Jonathan Sleigh and Robert Grasska

Paramedic Jonathan Sleigh responded to the call of a possible drug overdose call at Ramirez's residence with his partner, Robert Grasska.

Sleigh observed Ramirez walking around in front of the residence surrounded by multiple family members. ■■■■ approached them and began talking to the fire personnel, as Sleigh made contact with Ramirez. Ramirez appeared oriented and stated he did not want to be treated or transported to the hospital. Ramirez finally allowed Sleigh to take his blood pressure, but when Sleigh placed the chest monitors on Ramirez for a cardio evaluation, Ramirez ripped them off.

Ramirez appeared to be under the influence of methamphetamine because he was sweating, anxious, nervous, unable to focus and jittery. When SGPD arrived, they attempted to convince Ramirez to accept medical treatment but he still refused. At one point, SGPD officers handcuffed Ramirez and he became more cooperative, so the handcuffs were removed. He was then placed on a gurney and transported to PIH Health Hospital.

Sleigh rode with Ramirez in the ambulance on the way to the hospital without incident, with Cook following behind. Ramirez still would not allow a heart monitor or blood sugar test to be performed on him. When they arrived at the hospital, Ramirez unbuckled himself and jumped off the gurney as they took him out of the ambulance. Sleigh's partner, Grasska, summoned Cook for help, who radioed additional police units.⁶ Ramirez began to walk away but was blocked by paramedics, EMTs, Cook, and hospital staff. Everyone tried to convince Ramirez to come inside for treatment, but he refused. Ramirez expressed concern that he was not at a hospital. It took them about five or six minutes to make him realize that he was at a hospital. Ramirez was uncooperative but not combative. At one point, Cook drew his Taser but did not use it.

Although he refused to get back on the gurney as instructed, after a few minutes, Ramirez finally agreed to walk inside the Emergency Room (ER).⁷ He walked to an examination room, escorted by police, fire, and hospital personnel, but refused to enter the room or be treated. Ramirez became louder, refusing treatment. For several minutes everyone tried to convince him to cooperate, but he refused. Eventually, a nurse advised him that he could leave if he signed a medical refusal form. He agreed to do that and signed the form. Ramirez then walked out, escorted by several police officers. As he was being escorted out by the police, Ramirez started yelling that he needed medical attention. Sleigh did not know whether Ramirez was handcuffed at this point. Sleigh and Grasska remained inside the ER for a few minutes.

When Sleigh and Grasska exited the ER a little later, Ramirez was handcuffed and in the middle of the street. Ramirez's shorts had slipped down to his ankles, so he was in his underwear boxers, and his tank top was completely off. Ramirez was resisting the officers' attempts to get

⁶ Several Downey police officers responded to the scene shortly thereafter.

⁷ Grasska advised hospital staff to get a bed ready with restraints in case they were needed.

into the patrol vehicle. There were several officers observing, but only about four were actively involved in dealing with Ramirez. The officers placed Ramirez on the ground to control him and then placed a restraining strap around his ankles and stood him back up.⁸ They shuffled him to the police vehicle which was parked on the east side of the street facing south, and attempted to place him inside the back seat of the car, but he resisted. Cook kept trying to convince Ramirez to get inside the car to no avail. Ramirez was yelling something, but Sleigh could not hear or understand what he was saying. Cook used minor physical force such as pushing and shoving to get Ramirez inside the vehicle.⁹

When Grasska and Sleigh left the location, Cook had Ramirez almost completely in the back seat of the patrol car, but not fully. The police car door was still open and Ramirez's feet were sticking out.

EMTs Joey Gonzalez and Joseph Barbarino

Joey Gonzalez and his partner, Joe Barbarino, responded with the fire department and units of the SGPD in response to the call of a possible drug overdose. Ramirez appeared alert and oriented; however, he was displaying symptoms of being under the influence, such as rapid speech and an elevated heart rate.¹⁰

Joey Gonzalez drove the ambulance while Barbarino and one of the fire paramedics rode in the back of the ambulance with Ramirez. They were followed by fire personnel and a police unit. At the ER entrance, Ramirez unbuckled himself from the gurney and jumped off. Ramirez was upset because he did not think he was at a hospital, he believed he was in a jail. Ramirez began to walk away. Barbarino heard Ramirez say, "I don't want to be here. I want to call my probation officer. I'm fine. I'm fine. I don't want to be here."¹¹ By this point, several Downey police officers had arrived on the scene. The various police, fire, and hospital personnel were able to convince Ramirez to voluntarily enter the ER. Ramirez walked into the ER on his own accord. Once inside, Ramirez insisted he did not want treatment and refused to enter the examination room. He started becoming upset and agitated. Because he insisted on not being treated, the hospital staff had him sign out against medical advice and released him. At that point, the police arrested and handcuffed him.

⁸ Unlike his partner, Grasska did not notice if Ramirez had any type of restraining device on his ankles, nor did he observe Ramirez fall onto the street.

⁹ Neither Grasska or Sleigh observed the officers use any weapons on Ramirez nor did the officers strike him.

¹⁰ Barbarino stated that although Ramirez pulled the heart monitors off his chest, he did allow his blood pressure to be taken, and it appeared normal. Barbarino also stated that Ramirez denied he was using drugs, stating he had only consumed alcohol.

¹¹ Several hospital staff members also witnessed Ramirez refusing treatment throughout his time in the ER. Nurse ██████ heard Ramirez say, "I don't want to stay here. You can't keep me here" and observed him sign the medical refusal form. Nurse ██████ heard Ramirez say, "Why am I here? I have the right to refuse, I'm being kept here against my will, I have the right not to stay here." Security Officer ██████ observed that every time someone would walk by Ramirez, Ramirez would say, "They're holding me against my will." Nurse ██████ heard Ramirez say, "Leave me alone, Don't touch me, I have my rights, I don't want to be here, I want to leave."

When the police officers attempted to take Ramirez to the patrol car, Ramirez became resistive. He was dragging himself and using his weight to prevent the officers from taking him to the patrol car. When Joey Gonzalez and Barbarino left the location, Ramirez and the officers were still in the ER ambulance driveway.¹² Joey Gonzalez did not see anything that occurred at the stairs leading to the street or on Patton Road.

Dr. [REDACTED]

[REDACTED] was assigned to the ER on the date of the incident. [REDACTED] prescribed the drug Ativan for Ramirez in order to calm Ramirez down.¹³ However, ultimately no medical treatment was administered to Ramirez because he refused treatment. Once it was clear that Ramirez refused treatment, [REDACTED] walked away to treat other patients in the ER. By the time [REDACTED] finished treating the other patients, Ramirez was gone.

Statement of Officer Adam Cook

At 8:44 p.m., Cook responded to Ramirez's residence to assist the LAFD with a medical rescue call. The call indicated Ramirez was hallucinating and possibly under the influence of drugs. Two other patrol units were also dispatched, Officers Vajravukka and Vergara.

Fire and ambulance personnel were already on scene by the time Cook arrived. Ramirez was agitated, uncooperative, and pacing back and forth. Ramirez resisted the paramedics' efforts to get him on the gurney in order to transport him for medical treatment. Cook spoke with Alma who advised Cook that she was concerned about Ramirez's health due to his drug use.

Eventually Ramirez agreed to get on the gurney and be transported to the hospital for medical treatment. Cook advised Ramirez that he was not under arrest and removed the handcuffs from Ramirez for his ride to the hospital. Cook volunteered to follow fire personnel to the hospital. When the ambulance arrived at the ER entrance, Ramirez jumped out of the ambulance and began walking away. Paramedic and ambulance personnel attempted to convince him to get back on the gurney. Because Ramirez was under the influence of methamphetamine, was agitated, and was physically a large man, Cook feared the situation was very volatile and could turn dangerous very quickly.¹⁴ Cook radioed dispatch and requested that Downey Police respond to the hospital Code 3 to assist.¹⁵ Ramirez refused to get back on the gurney, insisting he wanted

¹² Barbarino was in the ambulance parking lot when he saw Ramirez walk across the street with the officers. Ramirez was on the ground and a strap was placed around his feet. Ramirez was then pulled upright and the two officers appeared to carry him, from underneath his arms, to the backseat of the patrol vehicle. Ramirez appeared to be struggling with two or three officers as they were trying to get him into their vehicle. The officers eventually got Ramirez inside their patrol vehicle and left the location.

¹³ Ativan is a sedative which can be used to relieve anxiety.

¹⁴ Ramirez was 6'0 feet tall and weighed 367 pounds.

¹⁵ "Code 3" means with red lights and siren activated. Cook summoned Downey Police because the hospital was in their jurisdiction and they would have a faster response time than South Gate police.

to call his probation officer. Cook offered to personally call Ramirez's probation officer if Ramirez would get on the gurney. Ramirez said "ok" but still refused to get on the gurney. By this time, several Downey officers had arrived. Eventually, Ramirez agreed to walk into the ER on his own. Once inside the ER, Ramirez kept saying that he did not want to be there and that he was being held against his will.

Cook asked one of the Downey officers for assistance with placing Ramirez on the gurney so the ER staff could restrain and treat Ramirez.¹⁶ At this point, SGPD Officer Gonzalez arrived at the ER and Cook briefed him. A nurse informed them that if Ramirez did not want to be at the hospital, he could sign a release form and he would be free to go. Ramirez overheard the nurse and immediately began yelling that he wanted to sign the form and be released from the hospital. The nurse obtained the form and brought it to Ramirez. Ramirez said he understood the form and signed it.

Once the hospital released Ramirez, Gonzalez told Cook that they could not leave Ramirez alone at the hospital or let him leave the premises on his own because he still appeared to be under the influence of methamphetamine. Although he was coherent, oriented, and appeared to know what he was doing when he acknowledged the medical refusal form and signed it, Ramirez was still displaying objective symptoms of being under the influence of methamphetamine. Cook and Gonzalez were concerned about leaving Ramirez alone in his current condition due to the fact that Ramirez could hurt himself or others. Gonzalez then ordered Ramirez to turn around and handcuffed him without incident. Ramirez asked why he was being arrested and Gonzalez explained that he was not under arrest, but was just being detained. Gonzalez told Ramirez that they were going to take him outside to conduct an under the influence investigation. If it was determined that he was under the influence, Ramirez would be placed under arrest and taken to jail. If Ramirez was not under the influence, he would be released. Cook and Gonzalez then began to walk Ramirez out of the ER, followed by the Downey officers who were just observing. After walking about 10 feet down the hallway, Ramirez became uncooperative. Ramirez began yelling that he did not want to go outside and began to physically resist going outside. Ramirez made his body rigid, spread his legs, planted his feet, and leaned back using his body weight as dead weight to prevent Cook and Gonzalez from making him walk. Cook and Gonzalez repeatedly ordered Ramirez to keep walking and pushed/pulled him when he refused to do so.

When they were finally able to get Ramirez to the sally port area, between the two ER exit doors, Ramirez threw himself into the right corner in an effort to pin himself so that he would not leave the ER. Once they were able to get Ramirez away from the corner, Ramirez began yelling that he wanted medical help.¹⁷ He flexed his arms, continued maintaining a stiff body, and resisted walking outside. Gonzalez applied pain compliance techniques on Ramirez's wrist and hand in an effort to get him to move forward, but they did not work. Cook used his right knee to push Ramirez's right thigh and buttocks area in an effort to make Ramirez's legs move forward.

¹⁶ The Downey officer said he would ask his supervisor and get back to Cook, but he never did.

¹⁷ This was the first time Ramirez mentioned needing medical help. At this point, Ramirez did not appear to be in any noticeable medical distress, his voice was loud and his breathing sounded normal.

Eventually, Cook and Gonzalez were able to get Ramirez out of the ER. Once outside the door, they turned and headed toward a set of concrete stairs which led down to Patton Road where Gonzalez's patrol car was parked, across the street from the stairs.¹⁸ With Cook on his right and Gonzalez on his left, Ramirez continued to resist efforts by the two officers to move him forward. Gonzalez continued to use pain compliance wrist locks on Ramirez, but they were not effective. Although Ramirez reacted by saying "ouch", he showed no sign of pain and continued to resist. Ramirez would say he was moving and complying, but physically he continued to resist. Ramirez pushed himself against a railing at the top of the stairs and placed his dead weight against the railing in order to resist being escorted down the steps. The officers repeatedly ordered Ramirez to get off the railing, but he refused. After Cook administered 3-4 knee manipulations to Ramirez's buttocks area, the officers were able to move him down the railing and walk him down the steps.¹⁹ Ramirez's large physical size, heavy weight, and strength, made it difficult for Cook and Gonzalez to overcome his resistance.

When they got to the bottom of the steps, Gonzalez directed Ramirez to his patrol car. As Cook and Gonzalez began to escort Ramirez across Patton Road, Ramirez leaned against the front of a fire truck and "locked up." Ramirez spread his legs, planted them, stiffened his body, leaned his upper body against the front grill of the truck, and resisted all efforts to move forward. Cook employed additional knee manipulations to get Ramirez to release his rigidity and move forward. Eventually, Ramirez released his position from the fire truck and moved across the street.²⁰ When they got to the middle of Patton Road, Ramirez attempted to pull away from the officers' grip. Ramirez suddenly lunged forward and made a U-turn, causing Cook to lose control. Gonzalez immediately tripped Ramirez who ended up in a seated position on the street.²¹ Both officers immediately regained control of Ramirez by grabbing his arms and ordered him to roll onto his stomach. When Ramirez did not comply, the officers forced him onto his stomach. Due to Ramirez's resistive behavior, Gonzalez placed a Hobble Restraint Device around Ramirez's ankles.²² Ramirez complained that he could not breathe.²³ An unidentified Downey officer responded, "If you're talking, you're breathing" and Ramirez responded, "Ok."²⁴

¹⁸ Gonzalez estimated that the distance from the top of the stairs (consisting of seven steps) to the patrol vehicle was approximately 50 feet and that it took at least four minutes to move Ramirez down the stairs and across the street to Patton Road. Patton Road is a small street allowing for two opposing lanes of traffic. Patton Road is on the east side of the hospital.

¹⁹ Knee manipulations consisted of knee kicks to Ramirez's back legs and buttocks area.

²⁰ Cook's patrol vehicle was parked directly behind the fire truck, however, they could not put Ramirez inside that vehicle because Cook is a K-9 unit and his vehicle contained a police dog.

²¹ Neither officer lost his balance nor fell to the street.

²² Cook recalled that a Downey officer assisted Gonzalez in placing the Hobble Restraint Device. Gonzalez stated Cook held Ramirez down on his upper torso, while Gonzalez took control of his legs. Only Ramirez's ankles were hobbled and the device was not linked to Ramirez's handcuffs.

²³ Per the video and audio evidence reviewed in this case, this was the first time, of approximately 19-20 times to follow, that Ramirez complained about not being able to breathe. Per the audio recordings, which have better sound quality than the video recordings, Ramirez spoke with labored breathing, as if he was out of breath, when he complained he could not breathe. Aside from the apparent shortness of breath, there was no other obvious sign of medical distress exhibited by Ramirez.

²⁴ This statement attributed to Ramirez is not audible in the recordings. The recordings indicate Ramirez cried out "Sir! Sir!" after the comment from the Downey officer and was then told by Gonzalez to "Shut up!"

When the officers stood Ramirez up to his feet, Ramirez said, “Thank you.”²⁵ The officers then instructed Ramirez that they were going to walk him to the patrol car, but backwards. Gonzalez and Cook did this in order to maintain control over Ramirez. With both officers at his side, Ramirez shuffled backwards towards the parked patrol vehicle. At one point, Ramirez stopped, locked his legs, and again became resistant. The officers overcame this resistance by pulling him to the patrol car, with his heels dragging. Once they got Ramirez to the right rear of the patrol vehicle, they opened the door and ordered him inside. Ramirez refused to get inside the car. He stiffened his body and refused to bend and get inside the car. Ramirez repeatedly stated he would get inside the car, but physically he refused to do so. The officers repeatedly ordered him into the car and tried to push him into the backseat, but were unsuccessful. At one point, Ramirez said “Let me take a breather.” Gonzalez responded that Ramirez could take his “breather” inside the car.²⁶ This back-and-forth exchange of the officers ordering Ramirez in the car and physically trying to push him in the car without success lasted a few minutes.²⁷ Gonzalez then warned Ramirez that this was his last chance to get in the car on his own. Ramirez continued resisting, so Cook pushed him with knee applications about five times around the thigh and buttocks area in an attempt to push him into the backseat of the car, but was unsuccessful.

Gonzalez and Cook then tried a different approach. Cook went around the back of the patrol car and climbed into the backseat through the left rear door. Gonzalez was able to push Ramirez into the right rear seat of the patrol vehicle, but his legs were still outside the car. Suddenly, Ramirez threw his weight back and laid down on the backseat on his left side, with his legs extended straight out of the vehicle. He wedged his head into the protrusion caused by the expansion of the metal cage in the center of the vehicle. Ramirez complained that he hit his head.²⁸ Both officers asked Ramirez to sit and put his legs inside the car, but he refused and continued to lay stiff on the backseat, on his left side. Cook reached down underneath both of Ramirez’s armpits and attempted to pull him back across the rest of the seat so that his legs would now be inside the vehicle. When Cook did this, Ramirez squeezed both his arms down and trapped Cook’s hands and forearms in an effort to prevent him from pulling Ramirez further into the car. Cook ordered Ramirez to release him, but Ramirez refused.²⁹ Cook was able to

²⁵ The recordings reflect that Ramirez did say “Thank you” and proceeded to assure the officers that he would stand up and walk to the patrol vehicle. Ramirez also expressed concern that his shoe was untied. Ramirez’s tone at this time did not exhibit any obvious sign of medical distress.

²⁶ Although Ramirez spoke in a labored tone, as if he was out of breath, Ramirez exhibited no other obvious sign of being in medical distress.

²⁷ The video footage indicates this had been going on for about three minutes at this point. Gonzalez described their attempts to get Ramirez into the patrol vehicle as a “tug-of-war” with Ramirez. Gonzalez added that they were pleading with Ramirez to cooperate.

²⁸ The audio recordings indicate Ramirez first complained that he “busted” his hand and two minutes later yelled out “Help me! Help me! Ow!” as if he got hurt or was in pain. Ramirez made no specific mention of hitting his head.

²⁹ The audio recordings indicate Cook ordered Ramirez not to squeeze his arm two separate times about a minute after Cook tased Ramirez. Gonzalez heard Cook yelling to Ramirez not to squeeze his arms and observed that Cook’s arms were trapped between Ramirez’s torso and his upper inner arms.

wrestle his hands free from Ramirez. Although Ramirez's feet were still hobbled, he began kicking his feet towards Gonzalez and an unidentified Downey officer who was helping him.³⁰

Cook removed his Taser from his holster and warned Ramirez that he would be tased if he did not stop resisting.³¹ Ramirez replied that he did not want to get tased and would cooperate, but did not cooperate.³² Cook removed the dart cartridge from his Taser and activated the Taser causing it to make a crackling noise.³³ Cook then "drive-stunned" Ramirez with his Taser by applying it directly on Ramirez's skin on the upper right shoulder area and activating it for about two to three seconds.³⁴ Ramirez yelled as if he felt the Taser, however he continued to be uncooperative and kick his feet at Gonzalez. Because the Taser was not effective, Cook placed it back in his holster.

Cook and Gonzalez then switched positions in yet another attempt to get Ramirez inside the patrol car. This time, Gonzalez was able to pull Ramirez deeper into the car so that his legs were inside the car, but his feet were at the door jamb preventing the door from being closed. Both officers ordered Ramirez to pull his feet inside the car and sit properly so they could close the door, but Ramirez refused to cooperate. Gonzalez ordered Ramirez to stop playing games.³⁵ The officers were then able to sit Ramirez up in the right rear patrol car seat, although his feet were still in the door jamb preventing it from closing. Both officers repeatedly ordered Ramirez to put his feet inside the car, but Ramirez refused claiming he could not do it. Cook took the seatbelt and gave it to Gonzalez, who seat-belted Ramirez. Once they were able to secure Ramirez's feet inside the car, Cook placed the strap portion of the Hobble Restraint Device inside the door jamb and closed the door, preventing Ramirez from kicking or raising his legs.

Cook walked to his patrol car as Gonzalez spoke with Ramirez. Gonzalez drove away, southbound on Patton Road, and Cook made a U-turn following Gonzalez, a minute or so behind him. Shortly thereafter, Cook heard Gonzalez on the police radio asking him to meet him at the

³⁰ At 9:37 p.m., immediately after the sound of Cook activating the Taser, Gonzalez is heard ordering Ramirez to "Stop kicking!"

³¹ Cook was armed with a department issued X26 Taser. Per the audio recordings, Cook told Ramirez, "Dude, I'm gonna fucken tase you. I've had enough of this. Get inside the car or I'm gonna... [Taser sound is heard] Do you wanna get tased?"

³² Per the audio recordings, Ramirez replied, "No, no", and Cook replied, "You're gonna get tased. Get in the fucken car! Right now. Get up." Gonzalez described Ramirez as temporarily going limp so the officers would be forced to deal with his total body weight, and at other times, he was actively resisting being placed in the patrol vehicle.

³³ Cook stated he did this so that Ramirez would realize that he would be tased if he did not stop resisting.

³⁴ Gonzalez recalled that Cook deployed his Taser on Ramirez for about three seconds. Cook's Taser activation log indicates that the Taser was deployed at 9:40:24 p.m. for two seconds and at 9:40:41 p.m. for five seconds. In "drive-stun" mode, the Taser is applied directly on the suspect's skin, without probes. SGPD Policy NO. 309.5.2 directs officers that, because the application of the Taser device in the drive-stun mode relies primarily on pain compliance, "the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between the officers and the subject, thereby giving officers time and distance to consider other force options."

³⁵ Cook also accused Ramirez of "being a little kid" and of playing "silly games."

southwest corner of Brookshire Avenue and Stewart and Grey Street.³⁶ Gonzalez indicated that Ramirez leaned his head back and was nonresponsive. Cook arrived at the intersection where Gonzalez advised him of the situation. Gonzalez asked Ramirez if he was okay, but got no response. Gonzalez then felt for a pulse, and located one.³⁷ While this was occurring, Cook requested the fire department and an ambulance to respond to the location.

Cook and Gonzalez then took Ramirez out of the patrol vehicle and rendered first aid. They laid Ramirez on his left side as Gonzalez checked for a pulse. When no pulse was located, they immediately started chest compressions. They removed the handcuffs and leg restraints, and advised dispatch that they could not locate a pulse on Ramirez. Approximately four minutes later, the Downey Fire Department paramedics arrived on the scene and took over resuscitation efforts.³⁸

Statement of Officer Juan Gonzalez

Gonzalez also responded to PIH Health Hospital in response to Cook's request for Code-3 assistance.³⁹ When Gonzalez arrived to the hospital, Ramirez was already inside the ER. After Ramirez refused medical treatment, Gonzalez and Cook escorted Ramirez out of the ER. About 20 feet out, Ramirez stopped and said, "I want medical treatment now." As they struggled to escort Ramirez outside, Ramirez was yelling random statements, like "Help, why are you doing this?"

While they continued their efforts to get Ramirez inside the vehicle, Ramirez continued to say that he needed help. When Gonzalez was pulling Ramirez into the backseat of the vehicle, Ramirez stated, "I can't breathe." Gonzalez responded, "You're exerting yourself, if you simply just sit up, it'll be a lot easier." Ramirez responded, "Ok, I'm good" at which point Gonzalez told him, "You know you're just playing games with us." Ramirez said, "I know, sir."⁴⁰

Gonzalez then advised dispatch that he was en route to the SGPD jail and that he had Ramirez in custody for resisting/obstructing a peace officer, possibly under the influence of a controlled substance, and in possible violation of his probation. Gonzalez entered the patrol vehicle and

³⁶ This location is .4 miles from the hospital.

³⁷ Cook was not sure if Ramirez was really unresponsive or if he was just "playing silly games."

³⁸ The responding Downey paramedics were not interviewed as part of this investigation. Nonetheless, medical records indicate that Downey Fire Squad 641 was dispatched at 9:49 p.m. and arrived at the scene at 9:51 p.m. Upon their arrival, Ramirez was in cardiac arrest. Paramedics noted that Ramirez had abrasions to both knees. At 9:56 p.m., Ramirez was "asystole", his heart had no electrical activity and no blood flow, so epinephrine was administered twice. Ramirez then went into pulseless electrical activity. There was one failed attempt at intubation, Ramirez was "clenching" his jaw and he had vomited. Ramirez arrived at the ER at 10:10 p.m. where advanced cardiac life support measures continued without success. Dr. [REDACTED] pronounced death at 10:27 p.m.

³⁹ Gonzalez did not respond Code-3 and it took him about 10 minutes to get to the hospital.

⁴⁰ These two statements attributed to Ramirez are not audible in the audio recordings. There are at least three instances where Ramirez's statements are unintelligible, so it is possible these statements were made by Ramirez but not clearly captured by the audio recordings.

asked Ramirez why he had refused medical treatment and the name of his probation officer.⁴¹ Gonzalez then drove the vehicle south on Patton Road, west on Stewart and Grey Road, and south on Brookshire Avenue. Ramirez then said, "I can't breathe." Gonzalez told Ramirez to sit up and that he was just playing games. Ramirez responded, "I know, sir."⁴² Gonzalez then noticed via his interior rear view mirror that Ramirez was sitting with his head back, and was no longer moving nor talking.⁴³ Gonzalez initially thought Ramirez was relaxing, but when he noticed Ramirez was not moving, Gonzalez became concerned for Ramirez and immediately pulled over to the side of the road to check on Ramirez's condition and render aid if needed. Gonzalez requested for Cook to respond to his location to assist him.

Video and Audio Evidence

Video surveillance footage from the ER captured Ramirez's entrance into and exit from the hospital.⁴⁴ Video footage shows Ramirez walking into the ER on his own, accompanied by fire department personnel, hospital personnel, and several officers, including Cook.⁴⁵ Video footage also shows a handcuffed Ramirez being walked outside by Cook and Gonzalez, who are shown holding Ramirez by his left and right arm in an attempt to push him outside. Ramirez has his feet firmly planted on the ground and appears to be refusing to move as he is pushed out of the ER.⁴⁶

In addition to the hospital surveillance video, Digital In-Car Video (DICV) from the Downey officers' patrol cars at the scene captured Gonzalez and Cook's efforts to get Ramirez to Gonzalez's patrol car which was parked across the street from the hospital on Patton Road.⁴⁷ The video footage shows Cook and Gonzalez struggling with Ramirez as they lead him down from the ER entrance platform, down seven stairs onto Patton Road, and across Patton Road to the patrol car. The officers are repeatedly heard ordering Ramirez to walk as he insists he *is* walking but is having to be pushed and kneed by the officers (on the back of his knees and buttocks) in an attempt to get him to move forward. The video footage also shows Cook tripping Ramirez, getting him to the ground, applying the Hobble Restraint Device on his ankles, and walking him

⁴¹ The audio recordings indicate Ramirez did not respond to the question of why he had refused medical treatment. Ramirez stated he could not breathe and responded that his probation officer's name was "Lavender." Ramirez sounds as if his breathing is labored and his voice sounds faint at this point.

⁴² This statement attributed to Ramirez is not audible in the audio recordings.

⁴³ About two minutes after announcing he was en route for booking, Gonzalez is heard stating, "I'm gonna check on this guy, he's already clamming in the backseat."

⁴⁴ The video footage has no sound and is date and time stamped.

⁴⁵ Ramirez is shown walking into the ER at 9:21 p.m.

⁴⁶ Ramirez is pushed out of the ER doors at 9:28 p.m.

⁴⁷ The SGPD patrol cars were not equipped with DICV.

backwards to Gonzalez's patrol car.⁴⁸ No DICV captured the officers' struggle, at Gonzalez's patrol car, to get Ramirez into the patrol car.⁴⁹

Audio recordings of the incident, from Ramirez's entrance into the ER to his final transport to jail in Gonzalez's patrol vehicle, were obtained from microphone recorders worn by Cook and Gonzalez. The audio quality on these recordings is superior to that of the DICV video footage in that it contains more audible statements from Ramirez and the officers. The officers' audio recordings corroborate all the witnesses' accounts that Ramirez adamantly refused medical treatment while inside the ER. While inside the ER, Ramirez is repeatedly heard stating, "I was brought here against my own will and I feel fine, I'm fine, I don't need medical help, I feel good, why am I being held against my will?" The audio recordings also captured Nurse Rosie Carpenter's medical advisement to Ramirez and his subsequent responses indicating he was leaving the hospital against medical advice.⁵⁰

Within a minute of Ramirez asking "How come you're cuffing me now?" and the officers advising him that he is going to be taken outside for an under the influence evaluation, Ramirez states, "I need medical help" to which Cook responds, "Oh, now you want medical help?"⁵¹ The officers are heard continually ordering Ramirez to walk. Ramirez repeatedly responds by stating he will walk.⁵² Immediately upon being taken to the ground and hobbled, Ramirez again states, "I need medical help."⁵³ Cook responds, "It's too late for that. Get on your stomach." Ramirez then says, "Ow" as if he is in discomfort or pain and states, "I can't breathe, sir. I can't breathe."⁵⁴ Gonzalez and Cook respond by telling Ramirez, "You can breathe. You can breathe just fine." Another officer is heard saying, "As long as you're talking, you're breathing." Ramirez continues crying out for help, yelling out "Sir, Sir, Ma'am, Ma'am, I'm not doing too good, Sir, Sir, Help me!" The officers continue their efforts to get Ramirez to the patrol car by forcefully ordering him to "Walk!" and telling him to "Shut up." Cook instructs Ramirez, "All you got to do is walk. You're making everything harder."⁵⁵

⁴⁸ Gonzalez and Cook appear to be the only ones physically interacting with Ramirez. The Downey officers are surrounding them, but are observing only. Although the video does appear to show Ramirez slightly turning in the officers' direction, his movements are not completely clear due to the obstruction caused by the officers surrounding him.

⁴⁹ Although the officers' struggle at the patrol vehicle to get Ramirez into the patrol vehicle is not visible due to the fact that the DICV camera appeared to be blocked by another Downey patrol car parked in front of it, that interaction was captured on Gonzalez and Cook's audio recorders.

⁵⁰ As stated by the witnesses, Ramirez sounds coherent and alert in his responses.

⁵¹ No audible response or further explanation is heard from Ramirez.

⁵² However, the DICV footage shows the officers having to push and knee Ramirez in order to move him forward. Ramirez's shorts also fall to his ankles apparently contributing to his inability to walk forward.

⁵³ At this time, there is no obvious sign that Ramirez is experiencing any medical distress.

⁵⁴ At this point, Ramirez's tone is labored and his voice sounds as if he is out of breath. Aside from the apparent shortness of breath, there is no other obvious sign of medical distress exhibited by Ramirez.

⁵⁵ The hospital video footage indicates Ramirez was escorted out of the ER at 9:28 p.m. and at 9:34 p.m. DICV footage indicates Gonzalez and Cook were ordering Ramirez to sit in the patrol car. It took the officers approximately six minutes to walk Ramirez down the 3-4 stairs from the ER and across Patton Road to the patrol car.

Four minutes after escorting Ramirez out of the ER, the officers are repeatedly heard ordering Ramirez to “Sit down” and “Get in the car.”⁵⁶ Ramirez continually responds by saying he will get in the car, saying he is trying, and asking for help. About two minutes into the struggle to get Ramirez into the patrol car, Ramirez asks for a “breather” but he is told he can take a “breather” in the car. Cook then tells Ramirez that this is his last chance to get in on his own. Afterwards, as the two officers continue to order Ramirez to get inside the car, he is told “Just get inside. Why are you making everything hard?” Ramirez then begins saying, “I can’t breathe” and continues to repeat that as the officers continue to instruct him to get inside the car. The officers tell Ramirez, “You’re exerting yourself... Go in there. You’ll be just fine.” As the orders continue for Ramirez to get inside the car, Ramirez complains that he “busted” his hand. Cook tells Ramirez he is “being a little kid” and continues to order him to get inside the car.

After almost five minutes of struggling with Ramirez to get him inside the car, Cook warns Ramirez he is going to get tased and asks Ramirez if he wants to get tased.⁵⁷ Ramirez responds “No, no” indicating he does not want to get tased. Cook warns Ramirez two additional times that he is going to get tased while continuing to order Ramirez to get inside the car. A few seconds later, at 9:37 p.m., the sound of the Taser is heard for a second time followed by the officers’ orders to Ramirez to “Stop kicking!” and to “Get in the car!” Further orders are given to Ramirez to get inside the car and he is warned he will be tased again if he does not comply. Cook is then heard ordering Ramirez not to squeeze Cook’s arm. After Ramirez complains of being “cut”, Cook informs him he is going to jail already and adds, “I don’t know why you’re making everything hard.” Around this time, Ramirez is again faintly heard saying, “I can’t breathe.”⁵⁸

At 9:39 p.m., Ramirez is heard saying, “I can’t breathe, Sir. I can’t breathe. I can’t breathe” as the officers continue ordering him to get his feet inside the car. Cook tells Ramirez, “You’re the one that’s making everything hard, dude. We told you several times to get in the car. Very easy. You’re over here playing silly games...” Immediately before Cook apparently walks away from Ramirez (so that Ramirez is no longer heard in Cook’s audio recording), Ramirez is heard saying “I can’t breathe. I can’t breathe, man” to which Cook responds, “You can breathe just fine. Shut up, you whiner.”⁵⁹

As Gonzalez begins to transport Ramirez to the jail for booking, Gonzalez asks Ramirez if he is listening and Ramirez replies, “Yes.” Gonzalez then asks Ramirez why he told medical personnel he did not want medical treatment. There is no audible response from Ramirez. After assuring Ramirez that he, Gonzalez, will call Ramirez’s probation officer, Gonzalez asks

⁵⁶ For approximately six minutes, Gonzalez and Cook are heard ordering and imploring Ramirez to “Get in the car!” The officers are heard ordering Ramirez to “Get in the car!” more than 30 times throughout this six-minute period.

⁵⁷ Cook stated, “I’m gonna fucken tase you. I’ve had enough of this. Get inside the car or I’m gonna... [the sound of the Taser being activated is heard] Do you wanna get tased?”

⁵⁸ SGPD - Policy No. 309.7 directs that all persons who have been struck by a Taser device probes or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any individual who is suspected of being under the influence of a controlled substance and/or alcohol, or who requests medical treatment should, as soon as practicable, be examined by paramedics or other qualified medical personnel.

⁵⁹ DICV video footage shows Cook walking back to his patrol car at 9:43 p.m.

Ramirez for his probation officer's name. Ramirez replies, "Lavender." As Gonzalez announces that he "finally" has one in custody, Ramirez is heard one final time in the background faintly stating, "I can't breathe."⁶⁰

From the time Ramirez was escorted out of the ER and after being hobbled, to the time he began to be transported to jail by Gonzalez, Ramirez stated that he could not breathe approximately 19-20 times.

Postmortem Examination

On February 15, 2015, Deputy Medical Examiner Ogbonna Chinwah performed a postmortem examination of Ramirez. Ramirez had superficial abrasions on his left forehead, above the eyebrow, as well as two linear abrasions on the back of his left shoulder. Small abrasions were also noted on both of Ramirez's elbows, and a small abrasion was noted on his left knee. Superficial linear contusions were also noted around both of Ramirez's wrists. Two areas of superficial contusion were also noted to the front of Ramirez's right leg.

Significantly, the autopsy yielded no evidence that undue physical pressure was applied on Ramirez's body during the attempt to restrain him. There was no autopsy evidence of respiratory compromise, such as injuries to Ramirez's neck, rib cage, diaphragm or chest wall. There were no skeletal fractures or brain hemorrhage.

The toxicological examination showed a significant level of methamphetamine in Ramirez's body.⁶¹ Dr. Chinwah attributed the cause of death to methamphetamine toxicity, and determined the manner of death was accidental. A condition contributing to but not related to the immediate cause of death was sickle cell trait.⁶²

LEGAL ANALYSIS

A peace officer may legally arrest someone if he has probable cause to make the arrest. (Penal Code section 836a; CALCRIM No. 2670).

A peace officer may use reasonable force to arrest or detain someone, to prevent escape, to overcome resistance, or in self-defense. (Penal Code section 835a; CALCRIM No. 2670).

A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall

⁶⁰ Radio transmission logs indicate that Gonzalez made this announcement at 9:41 p.m. and that six minutes later, by 9:46 p.m., Gonzalez was requesting paramedics to respond because Ramirez was unresponsive.

⁶¹ The toxicology result for methamphetamine was 1.9 ug/mL (microgram per milliliter). According to analyst Oscar Pleitez, who conducted the toxicology analysis, the result is considered a "significant amount" because a person is considered "overdosed" at a 2.0 ug/mL level.

⁶² Dr. Chinwah explained that extensive sickling of the cells was evident in Ramirez's organs indicating Ramirez had the Sickle Cell Trait which interferes with the oxygenation of the blood. Methamphetamine compounded this interference effect, resulting in Ramirez's death.

such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect an arrest or to prevent escape or to overcome resistance. (Penal Code section 835a).

In *Graham v. Connor* (1989) 490 U.S. 386, 396-397, the Court held that use of force cases are to be reviewed using an objective standard of the reasonable officer:

“The ‘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. [Citation] . . . With respect to a claim of excessive force, the same standard of reasonableness at the moment applies: ‘Not every push or shove, even if it may later seem unnecessary in the peace of a judge’s chambers,’ [Citation] violates the Fourth Amendment. The 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.”

Placing a person wearing handcuffs and leg restraints in a prone position is reasonable where the person has violently resisted arrest. See *Mayard v. Hopwood* (8th Cir. 1997) 105 F.3d 1226; *Price v. County of San Diego* (1998) 990 F. Supp. 1230; *Simpson v. Thompson* (2010) 2010 U.S. Dist. LEXIS 114941.

The use of a Taser constitutes an intermediate, significant level of force that must be justified by the governmental interest involved. *Bryan v. McPherson* (2010) 630 F.3d. 805, 826.⁶³ Use of a Taser is subject to the same reasonableness test as the use of force generally. See, *Hinton v. City of Elwood* (1993) 997 F.2d 774, 777 (not excessive for officers to use an “electrical stun gun” on a man after grabbing him and wrestling him to the ground, because of his active resistance to arrest.) The use of a Taser falls within the category of non-lethal force. *Bryan*, supra, 630 F.3d at 825; See also, *Lewis v. Downey* (2004) 581 F.3d 467, 475. When feasible, officers must normally provide a warning and the failure to give such a warning is a factor to consider. *Bryan*, supra, at 831.⁶⁴

To establish that the crime of involuntary manslaughter pursuant to Penal Code section 192(a) has been committed, the People must prove the following elements:

1. The defendant had a legal duty to the decedent;
2. The defendant failed to perform that legal duty;
3. The defendant’s failure was criminally negligent; AND

⁶³ In *Bryan*, supra, the officer used a Taser in dart-mode which, when deployed correctly, has a greater impact on the subject than when used in drive-stun, or contact, mode. The cases cited by *Bryan* do not distinguish between dart and drive-stun modes.

⁶⁴ SGPD - Policy No. 309.4 provides that a verbal warning of the intended use of the Taser device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances.

4. The defendant's failure caused the death of the decedent.
Penal Code section 192(b); CALCRIM No. 582

A legal duty to render aid is imposed when a special relationship exists between the decedent and the defendant. *People Montecino (1944) 66 Cal.App.2d 85*. Such a special relationship exists, and a duty is imposed, when a jailer takes custody of a suspect. *Lum v. County of San Joaquin (2010) 765 F. Supp.2d 1243; Girardo v. California Department of Corrections and Rehabilitation (2008) 168 Cal.App.4th 231*. This duty is codified in Government Code section 845.6.

Criminal negligence involves more than ordinary carelessness, inattention, or mistake in judgment. A person acts with criminal negligence when:

1. He or she acts in a reckless way that creates a high risk of death or great bodily injury; AND
2. A reasonable person would have known that acting that way would create such a risk. *CALCRIM No. 582*

Criminal negligence is defined as "so different from how an ordinarily careful person would act in the same situation that his or her act amounts to disregard for human life or indifference to the consequences of that act." *CALCRIM No. 582*

An act causes death if the death is the direct, natural, and probable consequence of the act and the death would not have happened without the act. A natural and probable consequence is one that a reasonable person would know is likely to happen if nothing unusual intervenes. *CALCRIM No. 582*

The evidence examined in this investigation is insufficient to prove beyond a reasonable doubt that Cook and Gonzalez committed the crime of involuntary manslaughter based on the failure to perform a legal duty pursuant to Penal Code section 192(b). It cannot be proven beyond a reasonable doubt that Cook and Gonzalez were criminally negligent and hence, responsible for Ramirez's death. Further, it cannot be proven beyond a reasonable doubt that Cook and Gonzalez used excessive force in arresting Ramirez.

The evidence examined in this investigation shows that from their very first contact with Ramirez, at his home and in the hospital, Officers Cook and Gonzalez repeatedly heard Ramirez adamantly refuse medical treatment and assure everyone that he was "fine" and did not need medical care. This initial refusal for medical treatment by Ramirez would be to Ramirez's detriment later when the officers, understandably, subsequently failed to adequately perceive and respond to Ramirez's subsequent plea for medical treatment and claim of medical distress.

Upon formally refusing medical care, by signing a form indicating that he was leaving the hospital against medical advice, the officers had probable cause to believe Ramirez was under

the influence of a controlled substance and attempted to take him into custody for that violation. The officers had reason to believe Ramirez was under the influence of a controlled substance based on their own observations of Ramirez, as well as the information obtained from his sister about his drug use and symptoms. When the officers attempted to effectuate Ramirez's arrest, Ramirez physically resisted by refusing to walk to the patrol car and planting his feet in order to prevent the officers from moving him forward. Therefore, when Ramirez turned around facing the officers and continued to resist efforts to walk towards the patrol car, the officers placed the Hobble Restraint Device on him in order to protect themselves from his further physical resistance and to facilitate his transport to the patrol car. The officers did not tie Ramirez's ankle restraint to his handcuffs and immediately assisted him to a standing position. The force used by the officers in employing the Hobble Restraint Device was justified in view of the resistance offered by Ramirez.

The evidence shows that when the officers repeatedly ordered Ramirez to get inside the patrol car and attempted to get him physically inside the vehicle, Ramirez continually resisted. In the audio recordings, the officers are heard ordering Ramirez to get inside the vehicle more than 30 times. At one point, Ramirez laid himself across the backseat, with his feet sticking out of the vehicle, refusing to get inside. In light of Ramirez's ongoing physical resistance, Cook deployed the Taser directly on Ramirez one single time, after having warned him that he would do so if Ramirez continued to resist, in an attempt to get Ramirez to comply and get him physically in the patrol car. Cook's single application of the Taser on Ramirez was not unreasonable or excessive. Once the Taser proved unsuccessful, Cook and Gonzalez employed a different force option, switching physical positions, in yet another attempt to get Ramirez inside the car, which ultimately proved successful.⁶⁵

But for knee kicks, which were applied to Ramirez's buttocks and back of his knees, accompanied by repeated verbal orders for him to walk, the officers did not strike Ramirez with their hands, feet, or police baton. The post-mortem examination of Ramirez revealed that there was no force applied beyond the minimum reasonable force that was used to gain control and custody of Ramirez. To that effect, there was no autopsy evidence of skeletal fractures or brain hemorrhage.

Lastly, the People cannot prove beyond a reasonable doubt that the failure by the involved officers to summon medical help sooner was the cause of Ramirez's death. Dr. Chinwah attributed Ramirez's death solely to methamphetamine toxicity with a contributing condition of sickle cell trait. There is no causal connection between Ramirez's death and the officers' actions. As such, any arguable negligence or lack of action by the officers in not summoning medical aid sooner cannot be proven to be the cause of Ramirez's death beyond a reasonable doubt.

⁶⁵ Cook's use of the Taser in drive-stun mode appears to be in compliance and in accord with SGPD Policy No. 309.5.2 which limits the drive-stun mode to two situations, to supplement the probe-mode to complete the circuit, or as in this case, as a distraction technique to gain separation between the officers and the subject, thereby giving the officers time and distance to consider other force options.

Given the objective symptoms displayed, it would not have been reasonable for the officers to have known that Ramirez was suffering from a life-threatening ailment. Ramirez had insisted from the beginning that he was fine and did not need medical assistance, going as far as signing himself out from the hospital against medical advice. In fact, when Ramirez stated he was fine and did not need medical assistance, he indeed sounded fine, coherent and alert by all accounts. It was only immediately *after* he was handcuffed that Ramirez for the first time stated he needed medical assistance. It was not unreasonable that the officers and witnesses at that point did not believe Ramirez's plea that he needed medical help, that he was feigning medical distress in order to avoid being taken to jail for being under the influence.⁶⁶ Although Ramirez subsequently did state numerous times that he could not breathe, it was not unreasonable that the officers continued to believe that Ramirez was feigning medical distress, due to the fact that Ramirez continued to physically resist their efforts, posing a formidable resistance to their efforts to take him into custody, and continued to engage the officers in conversation. And, although Ramirez did exhibit some shortness of breath when stating he could not breathe, it was not unreasonable that the officers would attribute this to Ramirez's ongoing physical struggle with them.

CONCLUSION

Based upon the foregoing analysis, we decline to initiate criminal proceedings against Officers Cook and Gonzalez. We are closing our file and will take no further action in this matter.

⁶⁶ And, judging by Ramirez's voice the very first time he said this, he exhibited no apparent shortness of breath at that point.