

**In-Custody Death of Husie Outing
Los Angeles Police Department**

**Sergeant Oliver Thomas, #34998, Clinton Popham #35172,
Damien Castro #43442**

J.S.I.D. File #18-0512



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

March 29, 2022

MEMORANDUM

TO: CAPTAIN RICH GABALDON
Los Angeles Police Department
Force Investigation Division
100 West First Street, Suite 431
Los Angeles, California 90012

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

SUBJECT: In-Custody Death of Husie Outing
J.S.I.D. File #18-0512
F.I.D. File #F067-18

DATE: March 29, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 19, 2018, in-custody death of Husie Outing involving Los Angeles Police Department (LAPD) Sergeant Oliver Thomas, and Officers Clinton Popham and Damien Castro. We have concluded that the officers used reasonable force under the circumstances. We further find that the officers' use of force did not cause Husie's death.

The District Attorney's Command Center was notified of this in-custody death on December 19, 2018 at approximately 12:45 p.m. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on reports, recorded interview transcripts, autopsy and toxicology reports, and videos and photographs submitted to this office by the LAPD's Force Investigation Division (FID). The departmentally compelled statements of all involved officers were considered in this analysis.

INTRODUCTION

On Wednesday, December 18, 2018 at approximately 9:15 a.m., Husie got into a series of physical altercations with two civilians in two separate places: The platform of a Metropolitan Transportation Authority (MTA) subway at Pershing Square, and on the corner of 5th Street and Flower Street, both in downtown Los Angeles. The incidents took place minutes apart. LAPD Officers Clinton Popham and Damien Castro arrested Husie for the assault at 5th Street and Flower Street at 9:27 a.m. LAPD Sergeant Oliver Thomas arrived mid-arrest and assisted in handcuffing Husie. At 9:40 a.m., while being treated by Los Angeles Fire Department (LAFD) paramedics Fernando Linares and Stephen Kehoe, Husie began to go into cardiac arrest. The LAFD took him to Good Samaritan Hospital, where he was pronounced dead at 10:43 a.m. by Doctor Veronica Vasquez.

FACTUAL ANALYSIS

The incident began on the Pershing Square MTA subway platform at 9:15 a.m. Husie attacked 14-year-old Liam B. and pushed him from behind onto the subway tracks of a train. Husie jumped down onto the tracks and punched Liam as Liam attempted to get off the tracks. Eventually, Matthew P. helped Liam climb out of the track, and Husie climbed onto the platform and exited to the street.

Marcus L. was descending the escalator towards the platform when he saw Husie run towards Liam and push him onto the tracks. MTA cameras captured the assault and Husie's escape. Two people, Elmore D. and Sabrina P., each called 9-1-1.

The Transit Services Division's (TSD) Communications Division (CD) put out a radio call for assistance for unknown trouble at the Pershing Square Red Line Station at 5th Street and Hill Street. At 9:19 a.m., TSD Police Officers Lin Hom and Jordan Durazo responded, interviewed witnesses, and took a report.

Three blocks away from Pershing Square Station, at 5th Street and Flower Street, construction worker Bruce G. stood at a construction site directing trucks into the work site. Husie approached Bruce and warned him a truck was approaching. Husie then punched Bruce in the head, causing Bruce to drop to a knee. Husie continued to punch Bruce and Bruce attempted to defend himself by blocking punches and grabbing Husie's legs. Both men fell to the ground and struggled until Bruce was able to get on top of Husie and subdue him.

Victor S. was driving southbound on Flower Street when he saw Husie throw Bruce to the ground and punch him repeatedly in the face. Victor called 9-1-1 to report the incident.

Ronnel S. was walking on the sidewalk and heard Husie growling. Ronnel saw Husie walking erratically, and without warning, attack, punch and strangle Bruce. Ronnel thought that Husie was under the influence of narcotics and possessed "super-human strength." Ronnel saw several other construction workers help Bruce and restrain Husie.

Juan R. and Rafael P. were co-workers of Bruce. They saw Husie attack Bruce, and assisted Bruce. By the time Rafael arrived, Bruce had subdued Husie and was on top of Husie's stomach while Husie was lying on his back. Juan separated the two men, rolled Husie onto his stomach, and pinned Husie on the ground. Juan said Husie ground his teeth and foamed at the mouth, and Juan believed Husie was possibly under the influence of narcotics.

Juan sat down on one of Husie's legs and held the other down with his hands as he tried to calm Husie while waiting for the police to arrive. Two other unidentified men grabbed Husie's arms. Bruce recorded a portion of the restraint with his cell phone.

Mario A. did not see the initial altercation, but saw people trying to control Husie. Mario said Husie rubbed his face in the ground and foamed at the mouth, as if he was under the influence of narcotics. Mario assisted controlling Husie by briefly placing his foot on one of Husie's hands.

Walter N. witnessed Husie being held down by five construction workers. Walter saw a sixth construction worker kick Husie in the head while the others held him down. Walter declined a formal interview. No other witnesses corroborated Walter's observation of someone kicking Husie in the head while being held down.

Video Footage

Video footage from Popham and Castro's body worn video (BWV), as well as a cellphone video taken by Bruce, capture the arrival of Popham and Castro and their subsequent arrest of Husie. From the time Castro and Popham arrive in their patrol vehicle and encounter the group holding down Husie until they handcuff Husie takes approximately one and a half minutes.

Bruce's video shows Castro and Popham arrive as four men were holding Husie down on the ground. Just as Popham and Castro approach, an unidentified man says, "He's strong. He's on something." Another man sits on Husie's back, two more hold down each arm, and one more sits on Husie's legs. As Castro puts on gloves, the men get off of Husie one at a time until Husie lays on the ground alone with his arms tensed while Popham and Castro attempt to pull Husie's arms behind his back to handcuff them. Husie does not attempt to get up, but stays on the ground with his arms rigid and unyielding, his torso slightly off the ground, and his upper body weight on his elbows, resisting efforts to handcuff him. Popham tells Husie to put his arms out and spread his legs. Husie stays in the same position unmoving. Popham then repositions himself to Husie's left and tells him to relax his arms and cooperate or Popham will use his Taser on him. Popham places his Taser against Husie's back and head, but never fires it. Meanwhile, Castro puts on gloves and tries to handcuff Husie's right arm. Popham pushes Husie's head down with his hand and places his body weight onto Husie's back while Castro handcuffs his left hand. Castro and Popham pull Husie's left arm behind his back to handcuff his hands together. Sergeant Oliver Thomas arrives and assists with pulling Husie's right arm behind his back towards his left so Castro can fully handcuff him.

LAPD officers responding to Husie's arrest at 5th Street and Flower Street were unaware that Husie assaulted Liam on the MTA platform at the Pershing Square Station at any time before Husie was transported to the hospital.

Castro and Popham's BWV are consistent with Bruce's video from a closer perspective.

Medical Treatment

While awaiting LAFD, Popham suggested placing Husie in his police vehicle, but when Husie was unable to stand on his own, Thomas told them to leave Husie on the pavement for fear of injuring themselves. Husie kept rolling back and forth, and Castro kept trying to keep him on his side. LAFD arrived at 9:32 a.m. and began rendering aid to Husie.

An LAFD Rescue Ambulance arrived with paramedics at 9:40 a.m and placed Husie into the ambulance. Popham removed Husie's handcuffs from behind his back and handcuffed him to the rail of the gurney so paramedics could better attend to him. Husie's blood pressure dropped and

Husie went into cardiac arrest. Paramedics first attempted to resuscitate Husie, and then transported him to Good Samaritan Hospital. Husie was pronounced dead by Doctor Vasquez at 10:43 a.m.

On December 22, 2018, Deputy Medical Examiner Zuhha Ashraf performed an autopsy on Husie. The autopsy noted numerous abrasions to Husie's head and upper and lower extremities. Dr. Ashraf documented that Husie had an enlarged heart and mild coronary artery atherosclerosis. Dr. Ashraf also noted a hemorrhage of the anterior chest wall and soft tissue of the pericardial sac and hematomas of the liver, which he attributed to the attempts to resuscitate him. Toxicology reports revealed that Husie tested positive for marijuana, and negative for all other narcotics, including synthetic cannabinoids and bath salts. Dr. Ashraf classified the cause of death as undetermined.

LEGAL ANALYSIS

A police officer may use reasonable force in making an arrest or in overcoming resistance to arrest. Penal Code § 835a. 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. 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.

“[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.

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. *People v. Skiff* (2021) 59 Cal.App.5th 579-580. CALCRIM No. 582

Popham and Castro responded to a scene of an ADW investigation, where they encountered numerous men detaining Husie, who was already visibly injured. Husie resisted the people holding him down and continued to resist when Castro and Popham attempted to handcuff him. The officers used the minimum amount of force necessary to subdue Husie, using primarily body weight for a short period necessary to handcuff him. After handcuffing Husie, Popham called for medical assistance when Popham realized Husie was in distress. The officers tried to keep Husie on his side so as to not constrict his breathing. When the LAFD arrived, they began medical treatment and the officers moved Husie's handcuffs from his back to the gurney so the paramedics could render aid. At that time, Husie went into cardiac arrest and had to be resuscitated. Husie was transported to the hospital, where he was pronounced dead. The autopsy report indicates the cause of death was undetermined. There is no evidence to show that any of the involved officers acted unlawfully or unreasonably, nor is there any evidence that their actions caused Husie's death.

CONCLUSION

The evidence examined in this investigation shows that Sergeant Oliver Thomas and Officers Clinton Popham and Damien Castro used reasonable force in their efforts to detain Husie. There is no evidence that the physical force used was the cause of Husie's death.