

In-Custody Death of Michael Mears

Los Angeles Police Department

**Officer Steven Beumer #35752, Officer Jose Pedroza #40452, Officer
Jonathan Gan #37078, Officer John Seffel #35330,
Officer Jessicah Gist #41525**

J.S.I.D. File #15-0005



JACKIE LACEY

District Attorney

Justice System Integrity Division

July 28, 2020

MEMORANDUM

TO: COMMANDER TIMOTHY NORDQUIST
Force Investigation Division
Los Angeles Police Department
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 Michael Mears
J.S.I.D. File #15-0005
F.I.D. File #003-15

DATE: July 28, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 24, 2014, in-custody death of Michael Mears involving Los Angeles Police Department (LAPD) Officers Steven Beumer, Jose Pedroza, Jonathan Gan, John Sefel, and Jessicah Gist. We have determined that all the officers used reasonable force under the circumstances and are not criminally responsible for Mears' death.

The District Attorney's Command Center was notified of this in-custody death on January 6, 2015. The District Attorney Response Team did not respond to the location.¹

The following analysis is based on reports and other materials, including recorded interviews, photographs, and the autopsy report submitted to this office by Detective Blair Grabiak of LAPD's Force Investigation Division (FID). The compelled statements of the involved officers were not considered in this analysis.

FACTUAL ANALYSIS

Michael Mears was 39 years of age at the time of his death. Mears resided with Ingrid L., a friend,² in her apartment in a multi-building complex located on Centinela Avenue, Building Number 4, on the fourth floor.

¹ The use of force occurred on the evening of December 24, 2014. Mears died on the morning of December 26, 2014, and the District Attorney's Command Center was notified on January 6, 2015. As such, the District Attorney Response Team did not respond to the scene.

² Ingrid L. referred to Mears as her brother, but they were not related. They were high school friends from Florida and were living together. According to Ingrid L., Mears served in the Marine Corps and had sustained a spinal cord injury during Operation Desert Storm. She stated that Mears also suffered from Post-Traumatic Stress Disorder and took numerous medications. LAPD confirmed that Mears served in the United States Marine Corp from July 1993 to July 1997.

On December 24, 2014, at approximately 7:41 p.m., Mears and Ingrid L. were in their apartment preparing for Christmas dinner. As Ingrid L. exited the shower, she heard Mears screaming, “They are coming to get me! They are coming to get me!” Ingrid L. ran to the living room, and saw Mears ducking down, as if trying to take cover, from an unseen threat. Mears said that someone was in his bedroom. Mears slammed the bedroom door closed and ran out of the apartment into the hallway outside. Ingrid L. followed and described Mears as “going crazy” and making noises as if he were involved in a fight with imaginary persons. Mears was shouting, “You aren’t going to get me! You aren’t going to get me!” In fear for her safety, Ingrid L. went back inside her apartment and locked the door.

Mears returned to the apartment, banged on the door, and then left abruptly. Ingrid L. was concerned for his safety and went back in the hallway to look for him. She did not see him, and she called the security office located at the entrance of the complex on Centinela Avenue. Security Officer Darrell G. answered her phone call. According to Darrell G., Ingrid L. stated that her brother, who was visiting, was in the stairway having convulsions, acting violently, and “uncontrollably” banging his head against the wall in the hallway outside a unit on the third floor.

Darrell G. walked from the security office to Building Number 4 and walked up the stairs. When he reached the third level, Darrell G. heard Mears hollering. From the stairwell, Darrell G. saw blood smeared on the walls and doors of the third level hallway. He saw broken hallway light fixtures and glass covering the floor. Mears was jumping up and down, banging his head against the walls, and shouting and screaming incoherently. As Mears approached the stairwell, Darrell G. closed the stairwell door because he feared being attacked. Mears repeatedly slammed his body against the stairwell door as Darrell G. held it shut.

As Darrell G. was responding to Ingrid L.’s call, a resident from the third floor called the security office and told Security Officer John G. that a person in the hallway outside his apartment was banging his head against the walls and his apartment door, and breaking lights. Another third-floor resident heard Mears yelling in the hallway outside her apartment. She heard him breaking glass and believed Mears triggered the fire alarm. She heard Mears yelling, “Shoot me! Take me out! I’m a U.S. Marine!” She was in fear of Mears breaking into her apartment. John G. went to assist Darrell G., and saw Darrell G. holding the stairwell door shut as Mears was banging and pushing on the opposite side, yelling, “Get me out of here!”

At 7:57 p.m., Darrell G. called 9-1-1 and the City of Los Angeles Fire Department (LAFD) was dispatched. At 8:11 p.m., LAFD paramedics arrived and saw Mears rolling around on the floor of the hallway in broken glass. The paramedics described Mears as being “covered from head to toe” in his own blood. Mears was screaming and shouting incoherently. A fire extinguisher had been removed from its cabinet and the glass cover had been shattered. The paramedics believed Mears was under the influence of an illegal substance, such as PCP or cocaine, and due to Mears’ behavior and size,³ they believed it was unsafe to approach him. The paramedics requested backup from LAPD at 8:12 p.m.

At approximately 8:30 p.m., uniformed Officers Steven Beumer and Jose Pedroza arrived at scene and met with LAFD personnel behind the closed fire safety doors in the middle of the third-floor hallway. The paramedics advised the officers that Mears needed medical attention, but he was

³ The autopsy report indicated that Mears was over six feet tall and weighed 305 pounds.

unsafe to approach because he was violent and possibly under the influence of narcotics. LAFD requested that the officers restrain and handcuff Mears so they could sedate him, place him on a gurney, and provide him medical treatment as soon as possible.

Beumer and Pedroza observed Mears yelling incoherently, “bouncing” his body off the walls, and sliding back and forth on the hallway floor in shards of broken glass. The officers observed all the windows inside the hallway had been shattered, and Mears was bleeding heavily from numerous cuts on his body. Seconds after the officers formulated a plan to handcuff Mears, he stopped yelling and laid prone on his stomach. The officers approached Mears, and when they were within one foot, Mears kicked Beumer’s legs.⁴ In response, Beumer drew his baton and struck Mears twice in the legs while backing up to avoid being kicked again. Beumer also pepper sprayed Mears in the face as he and Pedroza backed away. Beumer requested backup, and the officers positioned themselves by the doors in the hallway with LAFD personnel and waited for additional officers to arrive. Mears continued to scream incoherently and slide around on the hallway floor in the shards of broken glass. The pepper spray did not appear to affect Mears, but it affected the paramedics and the officers in the hallway.

At 8:38 p.m., Officers Jonathan Gan, John Seffel, Ken Lew, and Jessica Gist arrived at the scene. Beumer and Pedroza briefed the officers as Mears continued to roll around in the broken glass on the floor, slam his body against the walls, and scream incoherently. Beumer coordinated a plan to take Mears into custody. Gan was tasked with use of the Taser. Seffel was armed with a beanbag shotgun. Beumer, Pedroza and Gist were assigned to be the arrest team.

Officers gave Mears several commands and warned him that they would tase him if he did not comply. One firefighter heard an officer repeatedly state, “Lay down! Put your hands behind your back!” Mears ignored the commands and continued to kick and flail while on the ground. Gan deployed his Taser and struck Mears’ back with the darts. Gan tased Mears with no apparent effect as Mears continued to thrash his body and flail his arms and legs. Gan tased Mears four more times without any change in Mears’ behavior. Gan activated the Taser a sixth time, and Mears momentarily stopped kicking and flailing and came to rest lying face down.⁵ Paramedic Thomas D. later recounted to investigators that he has seen many people get tased during his 16 year career and it appeared that the use of the Taser “hardly even affected” Mears. Lew later told investigators that when he arrived in the hallway, he was consumed by the effects of the pepper spray and his visibility was limited, but he heard a Taser “go off” for a couple seconds only one time and then saw the officers handcuff Mears “immediately.”

The officers moved forward and held Mears down. Beumer placed his knees on Mears’ back; Pedroza placed his right knee on Mears’ left upper shoulder; Seffel placed his left knee on Mears’ lower left back; and, Gist utilized her body weight on Mears’ legs to gain control over his body. Mears moved his hands under his chest and refused to allow officers to gain control of his hands. Mears refused to comply with Pedroza’s commands to stop resisting, and Pedroza punched Mears two times to the rear of Mears’ left shoulder, causing Mears to shift his body, and allowing Beumer to pull Mears’ right arm out from underneath Mears’ chest. Pedroza and Seffel gained control of Mears’ left arm from underneath his body and Beumer was able to handcuff Mears. Gist and

⁴ In Beumer’s “Use of Force” report, Beumer stated Mears kicked his legs. The paramedics were behind the officers as they approached Mears, and they stated that it appeared Mears intentionally attempted to kick the officers.

⁵ The Taser’s internal data storage report indicated that the Taser was deployed six times for a duration of five, 32, three, five, five, and three seconds, respectively.

Pedroza applied hobble restraints on Mears' legs to prevent him from kicking and Mears was placed in an upright seated position. Mears was bleeding profusely from numerous self-inflicted lacerations.

Paramedics injected Mears with Versed⁶ to sedate him and then transported him in an ambulance to Ronald Reagan UCLA Medical Center, where he was admitted for a drug overdose and self-inflicted injuries. Paramedic Thomas D. stated Mears remained conscious during transport to the hospital and appeared to be "psychotic." Mears' heart rate was 190 beats per minute. On December 26, 2014, at 6:32 a.m., Mears was pronounced dead.

Coroner Report and Cause of Death

On January 6, 2015, Deputy Medical Examiner Timothy Dutra, M.D. of the Los Angeles County Medical Examiner's Office conducted an autopsy of Mears' remains and prepared a report. Dr. Dutra opined that Mears died "as a result of ventricular dysrhythmia due to cardiac enlargement with biventricular hypertrophy and four chamber dilation." Dutra also noted "other significant conditions of cocaine intoxication and police restraint with taser" that contributed but were not related to the immediate cause of death. Dr. Dutra characterized Mears' manner of death as "homicide" in conformity to the National Association of Medical Examiners categories defining homicide as a death resulting from a "significant physical interaction."

Dr. Dutra's referenced Mears' hospital records, noting that a "serum drug screen was positive for the cocaine metabolite methylecgonine." Mears was resuscitated two times at the hospital when his "cardiac rhythm became pulseless." He was resuscitated approximately 45 minutes after his arrival to the emergency room, and again approximately two hours later. Despite continued medical attention, Mears' "condition did not improve, and on the second hospitalization day he underwent a third cardiopulmonary arrest, and could not be resuscitated."

Dutra considered the toxicological examination of Mears' hospital admission blood. Dutra noted the quantity of the blood was limited, so based on the clinical history, testing priority was given to cocaine and cocaine metabolites. The medical examiner's office laboratory analysis detected and quantitated benzoylecgonine, a cocaine metabolite. Tramadol, an opioid, and bupropion, an anti-depressant, were also noted to be present, but the sample quantity was insufficient for quantitation. Dutra noted, "At the time of interaction with the police and the presentation to the emergency room, the behavior and clinical signs of the decedent have many features of the excited delirium syndrome."⁷

⁶ Versed, or midazolam, is a central nervous system depressant utilized by LAFD paramedics to sedate combative patients.

⁷ "Excited delirium syndrome" is a potentially deadly medical condition involving psychotic behavior and an extreme fight-or-flight response by the nervous system. The mechanism in which the syndrome occurs is not fully understood by the scientific community but is believed to be linked to increased dopamine levels in the brain which results in fast heart rates, feelings of euphoria, and hallucinations. Highly addictive drugs, specifically cocaine and methamphetamine, increase the level of dopamine in the brain. Roach, Brian M.D., Nichols Kelley, M.D., and Burnett, Aaron M.D. Excited Delirium and the Dual Response Preventing In-Custody Deaths, *Federal Bureau of Investigation Law Enforcement Bulletin* (2014).

LEGAL ANALYSIS

A police officer may use reasonable force in making an arrest or in overcoming resistance to arrest. Penal Code § 835a. In *People v. Perry* (2019) 36 Cal.App.5th 444, the prosecution alleged that Perry, a police officer, used “more force than was reasonably necessary under the circumstances” in violation of Penal Code section 149(a). The reasonableness of uses of force by law enforcement and section 149 is governed by the same standards as those applied in the Fourth Amendment context. “The reasonable test evaluates the totality of the relevant circumstances, which may include ‘the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.’” *Id.* at p. 466. In its analysis, *Perry* relied on the reasonableness standard as defined by the United States Supreme Court in the seminal case of *Graham v. Connor* (1989) 490 U.S. 386.

“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. . . . 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.” *Graham, supra*, at 396-397.

In *Hill v. Miracle* (6th Cir. 2017) 853 F.3d 306, the appellate court acknowledged the tension between the urgency of providing medical care to a person in the midst of a medical emergency and the person’s aggressive resistance to life-saving care. *Hill*, like *Graham*, involved a federal civil action, and *Hill* provides additional guidance in evaluating the reasonableness of police officers’ use of force. In *Hill*, paramedics inserted a catheter to intravenously administer medication to Corey Hill, who was having a profound diabetic emergency. An officer arrived just as Hill ripped the catheter from his arm, causing blood to spray from his arm. Hill kicked his feet and swung his fists as the paramedics tried to restrain him to provide medical attention. Having encountered several persons having diabetic medical emergencies in his career, the officer deployed a Taser device in drive-stun mode on Hill’s thigh long enough for paramedics to secure the catheter and administer medication.

Hill rejected the trial court’s analysis that narrowly looked at the *Graham* factors alone and fashioned a new modified test for situations where the officers use force to help resolve a medical emergency, “(1) Was the person experiencing a medical emergency that rendered him incapable of making a rational decision under the circumstances that posed an immediate threat of serious harm to himself or others? (2) Was some degree of force reasonably necessary to ameliorate the immediate threat? (3) Was the force used more than reasonably necessary under the circumstances (i.e., was it excessive)?” *Id.* at p. 314. *Hill* held that the officer acted in an objectively reasonable manner with the minimum force necessary to bring Hill under control, and the officer helped save Hill’s life. *Hill* also noted that that the officer’s decision not to wrestle Hill into compliance and to instead use a distracting application of Taser, was objectively reasonable because Hill was flailing a bloody catheterized arm. *Id.* at p. 315.

The use of a Taser falls within the category of non-lethal force. *Bryan v. McPherson* (9th Cir. 2010) 630 F.3d 805, 825. This use constitutes an “intermediate, significant level of force that must be justified by the government interest involved.” *Id.* at 826. The most important factor in *Graham* is whether the suspect posed an immediate threat to the safety of the officers or others,

but the *Graham* factors are not exclusive. *Id.* Courts may also examine “the availability of alternative methods of capturing or subduing a suspect.” *Smith v. City of Hemet* (9th Cir. 2005) 394 F.3d 689, 701. 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. Finally, officers are not required to use the least intrusive means available. Rather, they must act within the range of reasonable conduct. See, *Scott v. Henrich* (9th Cir. 1994) 39 F.3d 912.

CONCLUSION

Trained officers know that capture, control and restrain are urgent prerequisites to chemical sedation and life-saving treatment by medical personnel.⁸ Here, the initial first-responders were in fact trained LAFD paramedics, who visually assessed Mears and determined he posed a threat to himself and opined he was under the influence of drugs. LAFD contacted LAPD to assist LAFD’s efforts to sedate Mears and administer emergency medical aid. When Officers Beumer and Pedroza arrived, they spoke with LAFD personnel, and formed a plan to handcuff Mears so that LAFD could safely provide that medical aid. However, their initial plan and action failed when Mears resisted by kicking Beumer, who responded with two baton strikes and the use of pepper spray. Additional officers arrived to assist.

Mears’ erratic and violent behavior in conjunction with his large build instilled concern for the safety of the residents in the building, security officers, LAFD personnel, and LAPD officers. Nevertheless, the LAPD officers acknowledged that Mears was an imminent threat to himself and in the midst of a medical emergency. The officers formed another plan to detain him in order for LAFD to provide medical aid. After giving Mears numerous commands to stop resisting and a verbal warning, Gan tased Mears. Based on Beumer’s use of force report and other witness’ statements, the effects of the Taser were visibly unsuccessful. Finally, when Mears appeared to respond to the Taser, the officers continued to use physical force to handcuff Mears as he continued to resist, and the officers hobbled Mears to prevent him from kicking as he had done earlier. The officers immediately transferred custody of Mears to the paramedics, who provided Mears medical attention.

The evidence shows that Officer Gan tased Mears after initial efforts to physically restrain Mears failed. After the Taser was deployed, the officers employed only the force necessary in order to restrain and subdue Mears as he pinned his hands beneath his body to prevent officers from handcuffing him. The force used by the officers, including use of the Taser, was non-deadly force and was reasonable under the totality of the circumstances.

The coroner’s classification of the manner of death as “homicide” does not bear on the officers’ potential criminal liability. The legal definition of homicide differs from its forensic pathology definition. In the autopsy report, the effects of cocaine intoxication and police restraint with use of the Taser could not be excluded as a contributing factor. However, Dr. Dutra attributed Mears’ immediate cause of death to underlying heart disease. Dr. Dutra further noted “other significant conditions of cocaine intoxication and police restraint with use of Taser” and likened Mears’ “behavioral and clinical signs” with those of excited delirium syndrome.

⁸ <http://ipicd.com/Files/IPICD--Mini-Poster.pdf>

Similar to the totality of circumstances in *Hill*, the evidence here shows that the officers acted under tense and rapidly evolving circumstances to detain Mears so that paramedics could administer proper life saving techniques. The force used by the police officers, including the use of the Taser, was reasonable under the circumstances. Unfortunately, Mears did not survive the efforts of first-responders and doctors.

Based upon the evidence in this case, we find that Officers Steven Beumer, Jose Pedroza, Jonathan Gan, John Seffel, and Jessicah Gist applied lawful force in detaining Michael Mears and are not criminally responsible for his death. We are closing our file and will take no further action in this manner.