

**In-Custody Death of Oscar Javier Rojas**

**Los Angeles Police Department**

**Lieutenant Omar Bazulto, #34384**

**J.S.I.D. File #19-0490**



**GEORGE GASCÓN**

**District Attorney**

**Justice System Integrity Division**

**August 4, 2023**

**MEMORANDUM**

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

SUBJECT: In-Custody Death of Oscar Javier Rojas  
J.S.I.D. File #19-0490  
C.H.P File #0128-509-19  
L.A.P.D. File #F003-19

DATE: August 4, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 12, 2019, in-custody death of Oscar Javier Rojas involving Los Angeles Police Department Lieutenant Omar Bazulto. It is our conclusion that Bazulto did not cause Rojas' death.

The following analysis is based on reports, recorded interviews, photographs, and surveillance videos submitted to this Office by the CHP Southern Division, Investigative Services Unit. Neither the CHP nor LAPD officers were equipped with body worn cameras. No compelled statements were considered in this analysis.<sup>1</sup>

**FACTUAL ANALYSIS**

On February 12, 2019 at approximately 10:26 a.m., Rojas was released from the Los Angeles County Inmate Reception Center.

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<sup>1</sup> Bazulto did not make a voluntary statement.

At approximately 3:25 p.m., CHP Officer Matthew Jones was travelling southbound on the 101 freeway, when Jones observed Rojas roll down the freeway embankment on the northbound side of the 101 freeway, south of the Alameda Street overcrossing. Rojas stood up then crossed the northbound lanes of the freeway on foot. As he crossed, Rojas stopped oncoming traffic by gesturing towards the vehicles with his hand.

Jones activated his emergency lights and stopped traffic in the number 2, 3, and 4 lanes of the southbound 101 freeway. Jones exited his vehicle and made contact with Rojas.



Figure 1: Jones makes contact with Rojas at the center divider.

Jones observed blood on Rojas hands. Jones asked Rojas what he was doing, and in response Rojas stated, “they are after me” and he “didn’t want to be killed.” Jones believed Rojas to be under the influence of drugs.

Rojas climbed over the center divider and fell onto his hands and knees.



Figure 2: Rojas fell onto his hands and knees after he climbed over the center divider.

Rojas stood up quickly and Jones unholstered his taser. Rojas responded by raising his hands and Jones directed Rojas to walk towards the right shoulder of the freeway.



Figure 3: Rojas walks towards the right shoulder of the southbound side of the 101 freeway.

LAPD Lieutenant Bazulto appeared on scene driving an unmarked black Ford sedan, parked his vehicle on the right shoulder, and walked towards Jones and Rojas to assist. Jones handcuffed Rojas behind his back without incident. Jones and Bazulto walked Rojas back to Jones' vehicle and attempted to place Rojas in the front seat. Rojas resisted and stated, "they are in there."

After a few moments, Rojas agreed to enter the vehicle on his own. However, once inside the vehicle, Rojas again stepped out when Jones tried to place a restraining strap on the handcuffs. Jones and Bazulto decided to walk Rojas back to the right shoulder to deescalate the situation.

Jones decided he was going to drive his vehicle to the shoulder and attempt to place Rojas inside once they were out of the freeway traffic lanes. Jones asked Bazulto to stay with Rojas while Jones retrieved his vehicle.

As Jones neared the front of his patrol vehicle, he looked back and observed Rojas on the ground, on his stomach, with Bazulto crouched over him. Jones ran back to the shoulder and attempted to assist Bazulto. Rojas suddenly vomited a pinkish liquid and Jones requested medical assistance through dispatch. Jones retrieved his EMR bag from his vehicle and started medical aid on Rojas.

Emergency medical assistance arrived on scene and began treating Rojas. At approximately 6:10 p.m., Rojas was pronounced dead by Dr. Marc Eckerstein of the Los Angeles City Fire Department.

On February 14, 2019, Los Angeles County Department of Coroner Deputy Medical Examiner Doctor Natalie Plaza performed a post-mortem examination of Rojas. Plaza determined that Rojas suffered from hypertrophic heart disease. Additionally, a white knotted bag of methamphetamine was retrieved from Rojas' rectum. The toxicology analysis revealed that Rojas had 1.7 microgram per milliliter of methamphetamine in his femoral blood and 3.0 microgram per milliliter of methamphetamine in his heart blood. Dr. Plaza determined that Rojas cause of death was acute methamphetamine intoxication, and the manner of death was an accident.

## **LEGAL ANALYSIS**

“An officer may use reasonable force to make an arrest, prevent escape or overcome resistance, and need not desist in the face of resistance.” *Munoz v. City of Union City* (2004) 120 Cal.App.4<sup>th</sup> 1077, 1102. “Unlike private citizens, police officers act under color of law to protect the public interest. They are charged with acting affirmatively and using force as part of their duties, because the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it.” *Ibid.* (citations and internal quotations omitted). When protecting the public peace, a police officer “is entitled to the even greater use of force than might be in the same circumstances required for self-defense.” *Ibid.* “The question is whether a peace officer’s actions were objectively reasonable based on the facts and circumstances confronting the peace officer.” *Id.*, at page 1102. “The test is highly deferential to the police officer’s need to protect himself and others.” *Ibid.*

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer “may use all the force that appears to him to be necessary to overcome

all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him.” *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146.

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. *CALCRIM No. 582*

“A pedestrian shall not walk upon a roadway outside of a business or residence district otherwise than close to his or her left-hand edge of the roadway.” Vehicle Code section 21956(a).

The evidence examined in this investigation suggests that the detention and any use of force on Rojas was lawful. He violated the law and put his life and motorists lives in danger by crossing the freeway on foot. While it is unclear how Rojas ended up on his stomach with Bazulto crouched over him because Bazulto did not provide a voluntary statement, Rojas’ detention appears to be justified. Moreover, if Bazulto used force to get Rojas on his stomach, there is no evidence to suggest it was excessive or contributed to his death. As a result, Jones’ subsequent detention of Rojas was lawful.

Rojas died as a result of acute methamphetamine intoxication. Rojas suffered from heart disease and within five hours of being released from custody, Rojas ingested the methamphetamine that was responsible for his sudden death. Since Bazulto did not cause the death of Rojas, he is not criminally responsible for his death.

## **CONCLUSION**

Based upon the foregoing analysis, we find there is no evidence to suggest Lieutenant Bazulto acted unlawfully or in any manner contributed to Rojas’ death.