

In-Custody Death of Jedison Swagerty

Los Angeles Police Department

Officer Weon Lee, #39978, Officer Jose Deanda, #43208, Officer David Collenbaugh, #40471, Officer Luis Zamora, #40615, Officer Kimberly Gibson, #38688, Officer Freddy Reyes, #43187, Officer Allan Corrales, #36846, Officer Terrel Maston, #40330, Officer David Shin, #40577

J.S.I.D. File #18-0314



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

August 11, 2021

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 Jedison Swagerty
J.S.I.D. File #18-0314
L.A.P.D. File #F045-18

DATE: August 11, 2021

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 20, 2018, in-custody death of Jedison Swagerty involving Los Angeles Police Department (LAPD) Officers Weon Lee, Jose Deanda, David Collenbaugh, Luis Zamora, Kimberly Gibson, Freddy Reyes, Allan Corrales, Terrel Maston, and David Shin. It is our conclusion that the officers used reasonable force and are not criminally responsible for Swagerty's death.

The District Attorney's Command Center was notified of this in-custody death on July 20, 2018, at approximately 6:02 p.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by LAPD Detective Luis Alarcon.

The following analysis is based on reports, recorded interviews, photographs, and surveillance videos submitted to this office by the LAPD Force Investigation Division.

FACTUAL ANALYSIS

On Friday, July 20, 2018, between 3:02 p.m. and 3:10 p.m., LAPD received five 9-1-1 emergency calls reporting a man throwing himself into passing vehicles and laying in the middle of Vermont Avenue between First Street and Second Street. LAPD Communications Division created a radio call and broadcasted, "Olympic units, 415 man, Vermont and First, Vermont and First, on Vermont between First and Second Street, suspect male Black, 30 years, black sweatshirt, blue shorts, blue, white and red sneakers, throwing himself onto vehicles and laying himself in the middle of the street, Code Three."¹

¹ 415 is the Penal Code section for disturbing the peace and Code Three authorized a response with lights and sirens activated.

The radio call was assigned to Olympic Patrol Division Officers Lee and Shin. Lee and Shin were partners working in a marked black and white police vehicle. Both Lee and Shin were equipped with body worn video (BWV) cameras and their patrol vehicle was equipped with a digital in-car video system (DICVS).

When Lee and Shin arrived on scene, Swagerty was laying down and rolling between the driveway and the number three southbound lane on Vermont Avenue. Swagerty's head was to the north and his feet were to the south. A Department of Transportation (DOT) vehicle was parked north of the driveway in the number three southbound lane of traffic on Vermont Avenue. Lee and Shins' patrol vehicle's DICVS captured the encounter. See Figure 1.



Figure 1: Lee and Shin encounter Swagerty lying in the street on Vermont Avenue.

At approximately 3:17 p.m., Shin approached Swagerty and asked him, “Hey sir, how is it going? What’s going on?” Lee asked Swagerty, “Do you need help?” Swagerty continued to roll around on the ground. Shin then leaned over Swagerty and grabbed his left arm with both hands. Lee walked behind Shin to Swagerty’s right side and grabbed his right arm with both hands. Lee and Shin told Swagerty that they were there to help him and asked Swagerty to sit up and assisted him to his feet. See Figure 2.



Figure 2: Lee and Shin help Swagerty to stand up.

Once Swagerty stood up, he made unintelligible noises, pulled his right arm from Lee's grip, and attempted to poke Lee's face with his right hand. The officers told Swagerty to relax as they guided him to the sidewalk. Once they escorted Swagerty to the driveway apron, Lee told Swagerty to sit down. Swagerty quickly laid on the driveway and kicked his legs towards Lee as the officers released their grip on his arms. Lee requested a rescue ambulance (RA), and Lee and Shin stood by as Swagerty continued to lay on the driveway. See Figure 3.



Figure 3: Officers stand by as Swagerty lays on the sidewalk

As Lee and Shin waited for additional units and the RA to arrive, Swagerty continued to roll back and forth between the driveway and the street. Swagerty made hand gestures, spoke unintelligibly, pointed to the sky, and hit the ground with his hands. At approximately 3:23 p.m., Los Angeles Fire Department (LAFD) arrived and parked their vehicle in the number two lane of southbound traffic on Vermont Avenue just north of the DOT vehicle. See Figure 4.



Figure 4: LAFD arrived.

At approximately 3:25 p.m., the RA arrived on scene and parked their vehicle. LAFD Captain Riddall and Firefighter Sally walked towards the scene and approached Shin.



Figure 5: RA arrived on scene.

Shin briefed them on Swagerty’s behavior and asked them to give LAPD a few minutes for additional units to arrive and assist. Riddall advised Shin that LAFD could subdue Swagerty by administering medication to him. Riddall told Shin, “Usually we can

subdue a person like this, so you guys don't necessarily have to use force. We can use some drugs."

According to Firefighter Portis, Swagerty appeared to be incoherent as he rolled around on the hot concrete. Portis formed the opinion that Swagerty was under the influence of methamphetamine. According to Firefighter Kang, he observed Swagerty's skin had sloughed off his legs due to the hot concrete. Kang believed Swagerty was under the influence and stated to investigators, "Whether it was drug induced or something medical related, he wasn't acting right. Something that we would consider an altered level of consciousness." Based on Portis and Kang's observations, they both decided to treat Swagerty for agitated delirium. The treatment consisted of injecting Swagerty with five milligrams of Versed to sedate Swagerty so they could treat him safely.²

Over the next several minutes, Swagerty continued to roll around on the street as additional police officers arrived. The plan was to wait until Swagerty rolled onto his stomach, then the officers would hold him down to allow Portis to safely inject Swagerty with the medication. At approximately 3:32 p.m., Swagerty rolled over and numerous officers moved in to hold him down. The officers involved in subduing Swagerty were Lee, Shin, Deanda, Collenbaugh, Zamora, Gibson, Reyes, Pelayo, Corrales, and Maston.



Figure 6: The officers subdue Swagerty

At approximately 3:33 p.m., Portis placed his right hand on the back of Swagerty's left thigh, and with his left hand, injected Swagerty in his left thigh with the Versed medication. The officers continued holding Swagerty down until the medication took effect. While they were holding him down, Swagerty continued to flail his body and he attempted to bite Shin twice.

² According to Portis, Versed is a central nervous system depressant used to calm patients.

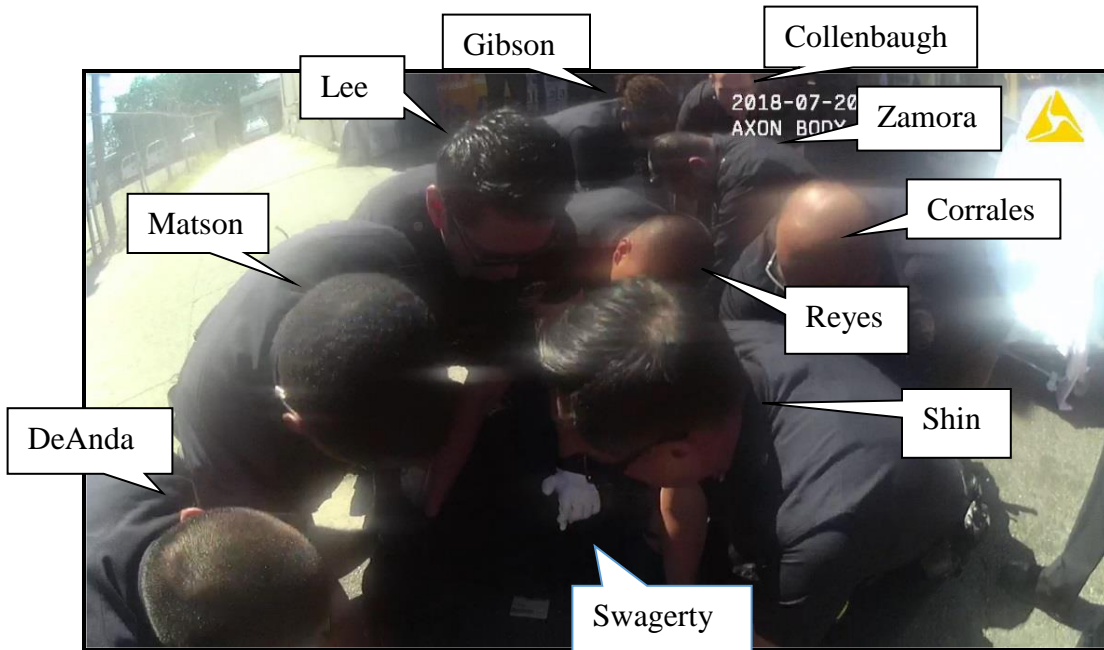


Figure 7: Officers holding Swagerty after medication was administered.

Swagerty stopped resisting and Shin was able to handcuff him. Immediately upon handcuffing Swagerty, officers rolled him to his right side and sat him up. The officers then lifted Swagerty off the ground and placed him on a gurney.



Figure 8: The officers placing Swagerty on a gurney.

After Swagerty was placed on the gurney, Kang asked firefighter Halpenny to check to see if Swagerty was breathing. Hallpenny checked, determined Swagerty was not breathing, and told LAPD officers to take off the handcuffs. Gipson removed the handcuffs and LAFD personnel rolled the gurney to the RA.³

As the RA transported Swagerty to Kaiser Permanente Sunset Medical Center, he went into full cardiac arrest. In response, Portis started performing cardiopulmonary resuscitation (CPR) on Swagerty. When Swagerty arrived at Kaiser he did not respond to life saving medical treatment. At 4:57 p.m., Doctor Peter Yoo pronounced his death.

On August 2, 2018, Los Angeles County Department of Coroner Deputy Medical Examiner Doctor Pedro Ortiz performed a post-mortem examination of Swagerty. During the autopsy, Ortiz requested a Computed Tomography (CT) scan, X-rays, and toxicological tests be performed. The CT and X-rays revealed that Swagerty had no fractures or abnormalities and no signs of trauma on his body, brain, or trachea. Ortiz noted Swagerty had abrasions to the face and lower extremities, but he also noted no internal evidence of injury. The toxicology analysis revealed that Swagerty had 7.2 nanograms per milliliter of Versed medication and 3.4 nanograms per milliliter of Delta 9-Tetrahydrocannabinol (THC, marijuana) in his blood.⁴

Ortiz stated that Swagerty's recent history of drug ingestion and Schizophrenia contributed, but were not directly related to his death. Ortiz stated that Swagerty's interaction with the medical staff and law enforcement did not cause his death. Based on the autopsy results, Ortiz ascribed Swagerty's death to acute cardiac dysfunction due to extreme agitation with physical exertion and idiopathic cardiomyopathy and classified the manner of death as accidental. Dr. Ortiz stated that the amount of Versed medication in his system was so minimal that it had no effect on the cause or manner of death.

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.4th 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.” *Id.* (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.” *Id.* “The question is whether a peace officer's actions were objectively reasonable based on the facts and circumstances

³ According to Detective Medina, it is within the LAPD policy to keep an individual taken into custody handcuffed to a gurney, for the protection of the LAPD officers and paramedics, that ride in the ambulance with the individual.

⁴ Toxicology revealed that Swaggerty did not have methamphetamine in this system. This fact, however, did not affect the decision to use the medication to calm him down. Swaggerty was unresponsive to officers' requests which was the basis for LAFD's decision to subdue Swaggerty medically to alleviate LAPD's necessity to use force to gain compliance.

confronting the peace officer.” *Id.*, at 1102. “The test is highly deferential to the police officer’s need to protect himself and others.” *Id.*

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*

The evidence examined in this investigation shows the officers used only the force necessary to subdue Swagerty to allow LAFD to inject him with the Versed medication. LAPD officers were informed via dispatch that Swagerty was throwing himself onto vehicles and laying in the street. When the officers first observed Swagerty, he was rolling around and blocking the number three traffic lane on Vermont Avenue impeding the flow of traffic and endangering his and others lives. For over 15 minutes the LAPD officers stood and watched over Swagerty as he continued to roll around in the street and sidewalk. It was not until LAFD decided that the best course of action was to inject Swagerty with the Versed medicine, that LAPD opted to physically hold Swagerty down to allow LAFD to inject him. After holding down Swagerty for a few minutes to allow the medicine to take effect, the LAPD officers placed him on a gurnery for LAFD to treat Swagerty. Under these circumstances, the officers’ use of force was reasonable.

Subsequent post-mortem examination revealed that Swagerty suffered no fractures, abnormalities, or any indicia of trauma to his body. Furthermore, the coroner opined that the officers conduct did not cause Swagerty’s death and that Swagerty died from an idiopathic cardiomyopathy. Since the officers’ use of force was reasonable and Swagerty’s death was not caused by their use of force, the officers are not criminal responsible for his death.

CONCLUSION

Based upon the foregoing analysis, we find Officers Lee, Deanda, Collenbaugh, Zamora, Gibson, Reyes, Corrales, Maston, and David Shin acted lawfully and are not criminally responsible for Swagerty’s death.