

In-Custody Death of Daniel Rivera
Los Angeles Police Department

Officer Brett Beckstrom, #41340
Officer Michael Lopez, #43766
Officer Angel Romero, #43778
Officer Nathan Ramos, #42812
Officer Tyler Moser, #42242

J.S.I.D. File #20-0312



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

December 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 Daniel Rivera
J.S.I.D. File #20-0312
F.I.D. File #F035-20

DATE: December 29, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 14, 2020, in-custody death of Daniel Rivera. We have concluded that the force used by Los Angeles Police Department (LAPD) Officers Brett Beckstrom, Michael Lopez, Angel Romero, and Nathan Ramos in detaining Rivera was reasonable. We further conclude there is insufficient evidence to prove beyond a reasonable doubt that the force used by Tyler Moser was unreasonable. We additionally find that there is insufficient evidence to prove beyond a reasonable doubt that the officers' actions caused the death of Daniel Rivera.

The District Attorney's Command Center was notified of the in-custody death on August 14, 2020, at 8:35 p.m. The District Attorney Response Team (DART) responded to the location. They were given a briefing regarding the circumstances surrounding the incident and a "walk-through" of the scene.

The following analysis is based on investigative reports, audio recordings of interviews, photographs, video evidence, an autopsy report, and witness statements submitted to this office by the LAPD Force Investigation Division (FID). The involved officers' compelled statements were not considered as part of this analysis.

FACTUAL ANALYSIS

On August 14, 2020, at approximately 6:00 p.m., LAPD Communications Division (CD) received multiple 9-1-1 calls of a man, later identified as Daniel Rivera, attempting to forcibly enter residences in the area of Wingo Street and the Pacoima Diversion Channel (wash).¹ CD requested LAPD Mission units to respond Code-3, described Rivera, and stated, "[Rivera] broke

¹ Multiple witnesses described Rivera trying to open their doors and enter their residences.

the window to the PR’s neighbor’s residence, is attempting to get inside. PR’s neighbor is home.”²

Moments later, an LAPD Air Support Division helicopter arrived over the location and observed Rivera running down Wingo Street. According to Tactical Flight Officer Jamie Delieuze, Rivera stumbled as he ran. Rivera then slowed to a walk, stumbled again, fell to his knees, and began crawling. Rivera got back to his feet and ran toward the east end of Wingo Street. Based on her observations, Delieuze broadcasted to other units that Rivera was “under the influence.”

Multiple LAPD officers responded in marked black-and-white LAPD police vehicles. The officers wore distinct LAPD uniforms, and each was equipped with a body worn video camera (BWV).³ When officers arrived, they ordered Rivera to put his hands up and lie on the ground. Rivera did not comply with the orders, climbed a chain-linked fence, and fell to the ground on the opposite side. He then stood up and began descending the embankment of the wash.⁴ According to Delieuze, Rivera “roll[ed] down” the embankment and laid motionless in the wash. Believing Rivera may have been injured from the fall, Delieuze requested that a Los Angeles Fire Department (LAFD) Rescue Ambulance (RA) respond to the scene.

Officers Brett Beckstrom, Michael Lopez, Angel Romero, and Tyler Moser descended the embankment and approached Rivera. Beckstrom and Romero had their duty weapons drawn, while Lopez aimed a less lethal beanbag shotgun at Rivera. Rivera was lying motionless on his left side with his right hand by his face.



Figure 1 – Still image from Beckstrom’s BWV depicting Rivera lying on the ground in the wash. Beckstrom has his duty weapon drawn, and Lopez holds a beanbag shotgun.

² “Code-3” is the radio code used to describe a mode of response in which an emergency vehicle’s lights and siren are activated. “PR” is the radio code for person reporting.

³ The incident was captured on multiple officers’ BWV.

⁴ The embankment of the wash had an approximate 27-degree slope and measured approximately 40 feet from top to bottom.

Beckstrom ordered Rivera to lay on his stomach, and Romero instructed him, in Spanish, to show his hands. Lopez also spoke to Rivera in Spanish, directing him to place his hands out to his side. Rivera did not respond to the commands.

At approximately 6:16 p.m., Beckstrom and Romero holstered their duty weapons, approached Rivera, and attempted to handcuff him.⁵ Romero grabbed Rivera's left wrist and forearm while placing his right knee on the left side of Rivera's back. Simultaneously, Beckstrom grabbed Rivera's right wrist, stated, "Give me your hand," and placed his left knee on Rivera's lower back. Rivera opened his eyes, looked up at Beckstrom, and placed his hands on the back of his head. As Beckstrom and Romero attempted to control Rivera's arms, Rivera clenched his hands together behind his head and shifted his midsection from left to right. Rivera grunted and struggled as Romero attempted to handcuff Rivera's left wrist.

Moser drew his Taser, stood by Rivera's legs, and told Rivera, "If you start fighting, you are going to get tased, dude." Romero secured one handcuff to Rivera's left wrist, and Rivera grabbed the unsecured right handcuff with his left hand. As Rivera continued to resist Romero and Beckstrom's efforts to handcuff his right wrist, Lopez assisted by securing a second set of handcuffs to the initial unsecured cuff. Officers then attempted to move Rivera's hands away from his head and place them behind his back so they could be handcuffed. Rivera grunted multiple times and resisted by tensing his arms and pulling his hands toward his head. Lopez repeatedly ordered Rivera, "Let go of the cuffs!" and Moser again warned Rivera that he would be tased if he continued to resist. Around this time, Officers Matthew Whitelaw and Ricardo Mota entered the wash and approached the group of officers and Rivera.⁶

Beckstrom, Romero, and Lopez continued to struggle with Rivera. The officers prevented Rivera from standing up and attempted to handcuff him by grabbing and applying pressure to his wrists, arms, back, neck, and head. At 6:16:55 p.m., approximately 20 seconds after his last warning, Moser placed the Taser against Rivera's left rear thigh and fired, causing both Taser probes to penetrate Rivera's thigh.

⁵ The times of events that occurred during the incident were obtained from the officers' BWV timestamps.

⁶ Whitelaw and Mota did not use force on Rivera.



Figure 2 – Still image from Whitelaw’s BWV depicting Lopez, Beckstrom, and Romero trying to control Rivera’s arms. Moser can be seen bending over at the time he deployed his Taser.

Following the Taser deployment, Rivera continued to lift his hips, move side to side, and yell incoherently. At 6:17:11 p.m., Moser placed the contacts of the Taser cartridge against Rivera’s left calf and delivered a three-point drive-stun.⁷



Figure 3 – Still image from Moser’s BWV depicting Moser applying a three-point drive-stun to Rivera’s left calf.

Rivera continued yelling and resisting the officers, and Moser said, “Stop fighting then!” At 6:17:25 p.m., Moser delivered another three-point drive-stun to Rivera’s left calf. Rivera began

⁷ Tasers have two modes, probe mode and drive-stun mode. In probe mode the Taser fires two darts that are connected to the Taser with insulated wires. When the darts attach to a person or their clothing, the Taser delivers an electrical charge between the two darts. The purpose of this charge is to cause neuro-muscular incapacitation (NMI). A drive-stun occurs when two electric contacts on the Taser unit are pushed against an area of the body, delivering an electric shock and localized pain. A three-point drive-stun is an LAPD-approved technique where a drive-stun is applied following probe-mode dart attachment. After the darts attach, the officer drive-stuns an area of the body away from the probe impact site. The spread between the deployed probes and the drive-stun may cause NMI. LAPD (July 2018) *Use of Force-Tactics Directive No. 4.5: Electronic Control Device - Taser*, p. 5.

kicking his legs while rocking his shoulders back and forth, and at 6:17:36 p.m., Moser delivered a final three-point drive-stun to Rivera's left calf. As the officers continued to struggle with Rivera, Officers Nathan Ramos and Jordan Reilly descended the embankment and entered the wash.⁸

Rivera continued resisting, yelling, and kicking as the officers attempted various positions and control holds to get him handcuffed. Ramos assisted the other officers by grabbing Rivera's ankles with both hands. At approximately 6:18:04 p.m., Romero was able to handcuff Rivera's right wrist. Whitelaw broadcasted that Rivera was in custody and requested an LAFD RA respond due to the use of a Taser. At Beckstrom's request, Lopez applied a hobble around Rivera's ankles.⁹ Beckstrom and Romero immediately turned Rivera onto his left side and held him by the right arm.

Once handcuffed and hobbled, Rivera continued to make grunting noises, move his hips, and twist his body despite officers' attempts to keep him in the recovery position.¹⁰ At approximately 6:20 p.m., Rivera rolled himself into a prone position and remained face-down for approximately two and a half minutes. Officers then returned Rivera to the recovery position, monitored his condition, and waited for an RA to arrive. At approximately 6:23 p.m., LAFD arrived nearby. Once it was established that LAFD would not enter the wash in their vehicle and the officers could not walk Rivera out, Firefighter/Paramedic Darren Lloyd and Firefighter Pegine Gray entered the wash on foot.

At approximately 6:29 p.m., Lloyd and Gray reached Rivera and performed an initial assessment. Beckstrom explained he suspected Rivera had likely ingested "too much meth" and had exhibited "super strength." During Lloyd's assessment, Rivera was breathing, responsive, and able to track Lloyd with his eyes. At 6:38 p.m., Rivera went into cardiac arrest. The hobble was removed from Rivera's ankles, and Lloyd and Gray administered CPR. Resuscitation efforts continued for approximately 16 minutes before Rivera was pronounced dead at 6:54 p.m.

On August 18, 2020, Deputy Medical Examiner Brice L. Hunt performed a postmortem examination on Rivera. Hunt noted multiple external blunt force injuries, including a laceration, contusions, and abrasions. These injuries were predominately to the face and extremities.¹¹ There were also two puncture wounds on the left thigh consistent with those caused by Taser darts. There was no evidence of acute blunt force injuries to the brain or internal trauma.

⁸ Reilly did not use force on Rivera.

⁹ A hobble is a device used to secure the legs of an individual.

¹⁰ The recovery position is also known as the "semi-prone" position and is designed to prevent suffocation through obstruction of the airway.

¹¹ Hunt did not opine as to the cause of these injuries. The evidence suggests Rivera fell down the embankment of the wash prior to physical contact with the officers. While attempting to handcuff Rivera, officers applied pressure to various parts of Rivera's body, causing Rivera's face, arms, and body to make contact with the concrete floor of the wash. BWV does not show officers striking Rivera.

Toxicology results performed on blood samples taken at the autopsy showed Rivera had 1.3 ug/mL (micrograms per milliliter) of methamphetamine in his femoral blood and 2.3 ug/mL in his heart blood at the time of his death.¹² According to Hunt, “methamphetamine can cause elevated blood pressure, increased heart rate, and sudden cardiac arrhythmias which may be rapidly fatal. Methamphetamine can also induce psychosis which has been associated with sudden cardiac death, however, the mechanism is not well understood.” Regarding another potential cause of death, Hunt stated:

Fatal cardiac arrhythmias have been associated with endogenous catecholamine production and transient electrolyte abnormalities during and shortly after physical struggles. Other acute metabolic abnormalities, drugs not detected by toxicology studies or congenital abnormalities such as cardiac channelopathy cannot be excluded after autopsy and, if present, may also contribute to sudden cardiac death.

Hunt concluded that although there was no evidence indicating an asphyxia injury occurred to Rivera, the temporal relationship between “cardiopulmonary arrest after prone physical restraint and the use of a [Taser] by law enforcement suggests that these events contributed to Mr. Rivera’s death to some extent.” Therefore, Hunt determined the cause of death to be cardiopulmonary arrest following prone physical restraint with electromuscular disruption and methamphetamine intoxication. Hypertrophic cardiovascular disease was considered a contributory condition because “enlarged hearts may increase the risk of cardiac arrhythmias.” Hunt ruled the manner of death a homicide “due to human involvement regardless of the intent of any individual’s actions.”

LEGAL ANALYSIS

Any peace officer who has reasonable cause to believe that a person has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance. Penal Code section 835a(b). The decision by a peace officer to use force shall be evaluated from the perspective of the reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgements about using force. Penal Code section 835a(a)4.

In evaluating whether a police officer’s use of force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. “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,

¹² Postmortem blood methamphetamine concentrations had a median value of 0.96 mg/L (equivalent to 0.96 ug/mL) with a range between 0.09 mg/L to 18.0 mg/L in a study examining 13 adult deaths attributed to methamphetamine overdose. BK Logan, CL Fligner, & T Haddix, *Cause and Manner of Death in Fatalities Involving Methamphetamine*, 43(1) J. Forensic Sci. 28, 31 (1998).

uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *Graham v. Connor* (1989) 490 U.S. 386, 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. CALCRIM No. 582. There may be more than one cause of death. An act causes death only if it is a substantial factor in causing the death. A substantial factor is more than a trivial or remote factor. However, it does not need to be the only factor that causes the death. CALCRIM No. 620.

Beckstrom, Romero, Lopez, and Ramos’ use of physical force to handcuff Rivera appears to be reasonable. Rivera was suspected of attempting to break into occupied houses and resisted being handcuffed. The officers applied control holds and pressure to control him and secure the handcuffs. At no time did any of the officers strike Rivera. The autopsy did not reveal any internal trauma, acute blunt force injuries to the brain, or asphyxia injuries caused by Beckstrom, Romero, Lopez, or Ramos during the struggle.

The legality of Moser tasing Rivera is less clear. In an effort to get Rivera to stop resisting, Moser deployed his Taser in dart-mode and subsequently applied three additional three-point drive-stuns. While Federal civil case law is not controlling on California criminal courts, the *Graham* (reasonable officer) analysis performed by the courts in tasing cases may be helpful in determining the reasonableness of Moser’s actions. The courts have held that using a Taser in dart-mode “constitute[s] an intermediate, significant level of force.” *Bryan v. MacPherson* (2010) 630 F.3d 805, 826. In determining reasonableness, courts have looked to the totality of the circumstances, focusing on the danger posed to the officers and others, the level of resistance (passive or active), and the seriousness of the crime at issue. While the most important factor is whether the suspect posed a threat to the safety of the officers or others, a suspect’s active resistance has often “mark[ed] the line between reasonable and unreasonable tasing.” *Mattos v. Agarano* (2011) 661 F.3d 433, 441; *Hagans v. Franklin County Sheriff’s Office* (2012) 695 F.3d 505, 509

An additional consideration when determining the reasonableness of an officer’s use of force is whether the officer’s actions violated their department’s internal policies. However, policy violations are not controlling as to whether criminal charges should be filed, as policies differ from department to department, not all violations of internal policies rise to the level of criminal wrongdoing, and policy violations are based upon a lesser standard of proof than that required to file and prove criminal charges. The LAPD Taser policy in place at the time of this incident states that Taser use is only permissible when “an officer reasonably believes the suspect or subject is violently resisting arrest or poses an immediate threat of violence or physical harm.” LAPD *Use of Force-Tactics*, p. 1. LAPD’s Taser policy does not define or describe what constitutes violently resisting. According to the policy, Tasers shall not be used on suspects who are “passively resisting or merely failing to comply with commands.” *Id.*

In the instant case, officers were tasked with arresting Rivera on suspicion that he had committed several serious felonies by attempting to break into occupied homes. When officers tried to handcuff Rivera, he physically resisted by clasp his hands together, grabbing the handcuffs,

yelling and moaning, and shifting his body. Rivera did not kick or punch the officers, and it is unclear whether his resistance would constitute “violent resistance” as required by LAPD’s Taser policy.¹³ Nonetheless, Rivera’s resistance is fairly categorized as “active.” While Rivera did not appear to be an imminent threat to the officers’ safety, their physical struggle with him was not without danger. Rivera was under the influence of methamphetamine, acted erratically prior to the police contact, and exhibited significant strength while resisting by preventing three officers from handcuffing him for over two minutes. While the officers were able to see Rivera’s hands, they had not seen his waistband or patted him down and could not be sure he did not possess a weapon. Therefore, based on the totality of the circumstances, there is insufficient evidence to prove beyond a reasonable doubt that Moser’s tasing of Rivera was unreasonable.

Rivera had a potentially lethal amount of methamphetamine in his body at the time of the incident and was lying face down in the wash prior to officers using force to restrain and handcuff him. Given these facts and Hunt’s conclusion that the relationship in time between Rivera’s heart attack and the physical restraint and tasing by the officers “suggests” they “contributed” to Rivera’s death “to some extent,” there is insufficient medical evidence to prove beyond a reasonable doubt that Beckstrom, Lopez, Romero, and Ramos’ physical restraint of Rivera or Moser’s tasing of Rivera were substantial factors in Rivera’s death.

CONCLUSION

We conclude that Officers Brett Beckstrom, Michael Lopez, Angel Romero, and Nathan Ramos used reasonable force in their efforts to detain Daniel Rivera. We further conclude that there is insufficient evidence to prove beyond a reasonable doubt that Officer Tyler Moser’s use of force was unreasonable. We additionally find that there is insufficient evidence to prove beyond a reasonable doubt that the officers’ actions caused the death of Daniel Rivera.

¹³ During an interview with LAPD investigators, Whitelaw described Rivera as “violently resisting.”