

In-Custody Death of Marland Anderson

Los Angeles Police Department

**Officer Timothy Wolleck, #35468, Officer Pedro Zamora, #40272,
Officer Gerald Ward, #31087, Officer Brett Cohen, #40760,
Officer Michael Hall, #33240, Officer Jose Anzora, #40848,
Officer Samuel Hong, #36271, Officer Robert Lisenby, #36733,
Officer Charles Winzer, #39582, Officer Alejandro Carrillo, #39482
Officer Casey Kiefer, #40222, Officer Bruce Oakley, #27238,
Officer Mark Kilgrow, #35373**

J.S.I.D. File #12-0286



JACKIE LACEY

District Attorney

Justice System Integrity Division

January 26, 2017

MEMORANDUM

TO: COMMANDER ROBERT A. LOPEZ
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 Marland Anderson
J.S.I.D. File #12-0286
F.I.D. File #F021-12

DATE: January 26, 2017

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the April 13, 2012, in-custody death of Marland Anderson involving Los Angeles Police Department (LAPD) Officers Timothy Wolleck, Pedro Zamora, Gerald Ward, Brett Cohen, Michael Hall, Jose Anzora, Samuel Hong, Robert Lisenby, Charles Winzer, Alejandro Carrillo, Casey Kiefer, Bruce Oakley, and Mark Kilgrow. It is our conclusion that all the officers used reasonable force under the circumstances and are not criminally responsible for Anderson's death.

The District Attorney's Command Center was notified of this in-custody death on April 15, 2012, at approximately 10:00 a.m. The District Attorney Response Team did not respond to the location.¹

The following analysis is based on reports, recorded interview transcripts, 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.

FACTUAL ANALYSIS

On April 9, 2012, at approximately 3:25 a.m., LAPD Officers Timothy Wolleck and Pedro Zamora were working, dressed in LAPD uniform, and patrolling in a marked black and white police vehicle. Officers Gerald Ward and Brett Cohen were also working, dressed in LAPD uniform, and patrolling in a marked black and white police vehicle. Both units responded to an attempted suicide call at an apartment building located on De Soto Avenue in the City of Los Angeles. Ward and Cohen were the first officers to arrive at the location.

¹ The use of force occurred on April 9, 2012. Anderson died on April 13, 2012, several days after the use of force. As such, the District Attorney Response Team did not respond to the scene.

The 9-1-1 caller, later identified as Vanessa B., opened the security gate for Cohen. At approximately the same time, Wolleck and Zamora arrived. Vanessa [REDACTED] had blood on her clothing.² Vanessa told the officers she left her boyfriend, Marland Anderson, upstairs in their apartment. [REDACTED].³

Vanessa provided the keys to the apartment to Ward, and the officers approached the front door. They knocked on the door and ordered Anderson to exit the residence. Anderson complied, [REDACTED] Anderson was initially cooperative with the officers and Wolleck immediately handcuffed Anderson without incident.

[REDACTED] Anderson [REDACTED] was suffering from anxiety and had trouble sleeping. Anderson indicated he ingested six sleeping pills and attempted to kill himself. The officers walked Anderson to the paramedics, who were waiting for him, and sat him on a gurney. The officers handcuffed Anderson's right wrist to the right handrail and his left wrist to the left handrail. Anderson was wheeled into an ambulance and the gurney was locked into place.

Wolleck rode in the ambulance as it travelled to Northridge Hospital while Zamora followed in their police vehicle.⁴ Wolleck was seated on the bench seat on the passenger's side of the unit, paramedic Glen Kratkin was seated on the jump seat, and paramedic Daniel Han was driving the ambulance.⁵ As they drove to the hospital, Kratkin asked Anderson some preliminary medical questions and inserted an IV into Anderson's left hand while Wolleck casually chatted with Anderson. Kratkin indicated, "Wolleck actually had a rapport with the patient. It was good...they were talking about sports or playing football...[Anderson] was really calm."

Very quickly, Anderson's demeanor went from calm to fidgety. Both Wolleck and Kratkin told Anderson to relax and explained they would be at the hospital shortly. Anderson began to lean forward while still seated on the gurney and straddled the gurney with his legs. [REDACTED] Kratkin told investigators that Anderson stood up, lifting the gurney off the floor of the ambulance.⁶ As he did so, Anderson ripped the left handcuff from the left side railing of the gurney, freeing his left hand with the handcuff still attached to his left wrist. [REDACTED]

[REDACTED] Wolleck grabbed the handcuff attached to Anderson's left wrist. Kratkin tried to grab one of Anderson's arms, but found it difficult

² Vanessa cut her finger while attempting to disarm Anderson, who was holding a dagger.

³ Anderson was 39 years old, stood six feet tall and weighed 216 pounds. He was wearing blue shorts, but no shirt or shoes.

⁴ The ambulance left the location at approximately 4:00 a.m. At this time, the other officers who had assisted in the initial call went back to their regular patrol duties.

⁵ With respect to Anderson's positioning, Kratkin was located near Anderson's head and Wolleck was on Anderson's left side.

⁶ Investigators believed that the gurney was never actually lifted off the floor because the antlers which lock the gurney into place were not damaged in this incident.

because Anderson was sweating profusely. Kratkin again grabbed Anderson's arm and Anderson again freed his arm. Wolleck yelled to Han to pull the ambulance over, which Han did. [REDACTED] Wolleck retrieved his handheld radio and requested assistance.⁷

[REDACTED]
[REDACTED] The ambulance came to a stop near 11916 Roscoe Boulevard. Zamora stopped his vehicle, exited, and opened the rear doors to the ambulance. As he opened the doors, Zamora saw Anderson straddling the gurney with Wolleck attempting to control him.⁸ [REDACTED]

[REDACTED] Anderson threw Wolleck off of him, but Wolleck was able to maintain control of the flailing handcuff. Wolleck fell face up into the area between the bench seat and the gurney. Wolleck was wedged in this tight space, still trying to control Anderson, who landed face up on top of Wolleck. At some point during this struggle, Zamora attempted to apply the Taser to Anderson's lower abdomen.⁹ [REDACTED]

[REDACTED]¹⁰

Wolleck remained pinned under Anderson for several minutes. During this time, Anderson continued to struggle with the officers. [REDACTED]

[REDACTED] Kratkin was worried Anderson would grab Wolleck's gun and attempted to assist the officers.¹¹ Kratkin saw that Anderson's IV had come out and there was blood on Kratkin's pants and Wolleck's face. Kratkin attempted to assist in holding Anderson's left arm. At some point during this struggle, Anderson's body positioning became perpendicular to Wolleck, with Anderson's feet near the side door of the ambulance. Han opened the side door, saw Anderson kicking violently, and grabbed onto his legs until additional officers arrived to assist.

At 4:10 a.m., Ward and Cohen arrived at the scene. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

⁷ This request aired at 4:06 a.m.

⁸ The officers and paramedics' statements are generally consistent. However, at times, the ordering of the sequence of events differs in minor respects.

⁹ [REDACTED]
[REDACTED]

¹⁰ Data from Zamora's Taser confirms an activation at 4:07 a.m. for five seconds. [REDACTED]
[REDACTED]

¹¹ Kratkin explained, "This guy is an attempted suicide... Keep him away from the officer's gun no matter what."

[REDACTED]

Sergeant Jace Kessler arrived, followed shortly by Officers Michael Hall and Jose Anzora. [REDACTED] an officer inside the ambulance yell, “I need someone to unhandcuff his right arm from the gurney!” [REDACTED] Anderson was forcefully trying to free his right hand from the gurney.

[REDACTED]

[REDACTED] The officers tried to move Anderson outside the ambulance as he continued to struggle with the officers. Officers Samuel Hong, Robert Lisenby, Charles Winzer, and Alejandro Carrillo, who had arrived at the location in response to the help call, aided the other officers. [REDACTED]

The officers managed to bring Anderson outside the ambulance and laid him on the ground, face up.¹² Anderson was immediately rolled onto his stomach. Officers Casey Kiefer, Manuel Vargas, Bruce Oakley, and Mark Kilgrow arrived at the location as Anderson was being moved out of the ambulance. [REDACTED]

[REDACTED] Other officers attempted to place his arms behind his back to handcuff him. These officers struggled to maintain control of Anderson’s arms and body. During this time, Ward twice attempted to tase Anderson’s right thigh to gain his compliance. Ward was unable to maintain contact because Anderson moved his body constantly.¹³ [REDACTED]

¹² Once Anderson was moved, Wolleck exited the ambulance. Kratkin indicated, “[Wolleck] was really shook up afterwards. I mean, he had that look on his face like this guy almost got me.” Wolleck did not assist the officers who handcuffed Anderson.

¹³ Kessler told investigators that Anderson “was actively resisting to the point that I haven’t seen in many, many years” and authorized Ward to use his Taser in drive stun mode. Kessler indicated that the Taser attempts did not affect Anderson. The data downloaded from Ward’s Taser shows an activation at 4:15:06 for five seconds and 4:15:10 for three seconds. The autopsy report notes, “No burns or darts are present on the skin.”

[REDACTED]

¹⁴ The officers rolled Anderson onto his side.¹⁵

After being placed on his side, Anderson’s body began to soften, in contrast to his aggressive behavior earlier. [REDACTED] Kessler motioned for the paramedics “to come in and takeover at that point.” Anderson was placed on a back board, loaded into the ambulance, and connected to an electrocardiogram (EKG) monitor.¹⁶ En route to the hospital, Kratkin noticed that Anderson’s pulse was degrading. When they arrived, hospital personnel immediately began chest compressions. Despite life-saving efforts, Anderson died on April 13, 2012.

On April 17, 2012, Deputy Medical Examiner James K. Ribe, M.D., performed an autopsy on Anderson’s body. Dr. Ribe ascribed the cause of death as acute anoxic encephalopathy and aspiration pneumonia and sequelae of neck compression and other unestablished factors. Dr. Ribe indicated that the history of combativeness and restraint by the officers was a condition contributing to, but not related to, the immediate cause of death.¹⁷ Dr. Ribe wrote, “The history shows that Mr. Anderson was agitated at the time of his restraint by officers, and may have been in a state of excited delirium. This materially contributed to his death by causing Mr. Anderson to be in need of urgent medical care, to be in need of physical restraint, and to suffer aspiration pneumonia and possible rhabdomyolysis. We note that excited delirium has a high mortality regardless of its etiology.” Dr. Ribe further indicated, “The neck compression involved considerable force. The mechanism and timing of the fatal neck compression could not be determined with medical certainty. For that reason, the manner of death is diagnosed as undetermined.”¹⁸

Vanessa was interviewed by Cohen at the scene, by FID investigators later that day, and by an investigator from the Coroner’s Office on July 30, 2012. Vanessa indicated that her boyfriend, Anderson, began talking about suicide three days prior to this incident. Vanessa said, “...He definitely has some type of paranoid delusions...He thinks people are talking about him and that people are sending him signals and responding to him.” On April 9, 2012, Anderson ingested six over the counter sleeping pills and tried to kill himself. Vanessa cut her finger as she grabbed a dagger from Anderson when he was trying to stab himself. Anderson dropped the dagger and

¹⁴ [REDACTED]

¹⁵ Kessler estimated that it took between three and five minutes to handcuff Anderson after he was removed from the ambulance.

¹⁶ A Los Angeles Fire Department Prehospital Care Report indicated that the EKG monitor was connected at 4:25 a.m.

¹⁷ A toxicology analysis showed the presence of THC and diphenhydramine, an antihistamine, in Anderson’s blood. Dr. Ribe also indicated, “The autopsy, toxicology, and review of the medical records and police documentation did not determine with medical certainty the cause of Mr. Anderson’s death.”

¹⁸ [REDACTED] Dr. Ribe indicated that “...forcible compression by a belt, accompanied by considerable force, could have caused the internal injuries of the neck organs.” The available evidence suggests that the injury to Anderson’s neck was self-imposed and occurred prior to the officers’ involvement.

grabbed a sword.¹⁹ Vanessa told investigators, “He kept trying to injure himself, and I attempted trying to stop him from doing that. He did choke himself pretty badly, but I don’t think he left any marks on his body.”²⁰ Vanessa dialed 9-1-1 as she attempted to remove the belt from Anderson’s neck as he was choking himself. When the officers arrived, Anderson was calm and cooperative with them.

CONCLUSION

“The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than 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 v. Connor (1989) 490 U.S. 386, 396-397.

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

The use of a Taser falls within the category of non-lethal force. Bryan v. McPherson (9th Cir. 2010) 630 F.3d 805, 815. This use constitutes an “intermediate, significant level of force that must be justified by the governmental interest involved.” The most important factor in Graham is whether the suspect posed an immediate threat to the safety of the officers or others. Bryan, supra, at 826. 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 (1994) 39 F.3d 912.

The evidence examined in this investigation shows that Anderson attempted to kill himself using a variety of means, including choking himself with a belt. Vanessa called 9-1-1 and officers responded to their home. When the officers initially contacted Anderson, he was calm and

¹⁹ [REDACTED]

²⁰ Photographs taken at the hospital depict marks on Anderson’s neck consistent with a belt located at the residence. Cohen’s handwritten notes from his interview with Vanessa are consistent with her interview with FID investigators. Cohen’s notes are detailed and signed by Vanessa. The notes document Vanessa stating that Anderson tried to choke himself with a belt twice during the early morning hours. Vanessa said at 1:30 a.m., “[Anderson] has belt around neck, pulling belt strap towards ceiling, choking himself. Victim removes belt.” Vanessa also told Cohen at 2:30 a.m. “[Anderson] choking himself with belt. While on phone, wit wrestled belt off of [Anderson]...” Several months later, when interviewed by the coroner’s investigators, Vanessa said, “[The belt] was never engaged. It was never taught, or tight, around his neck.”

cooperative. He was placed in an ambulance to be taken to the hospital. While en route to the hospital, Anderson's behavior changed drastically.

Anderson stood up, ripped the left handcuff from the gurney, and began struggling violently with Wolleck and Kratkin, with the handcuff still attached to his left hand. Han stopped the ambulance and Zamora opened the rear doors to assist. [REDACTED]

[REDACTED] Zamora attempted to place the Taser into contact with Anderson's body. Anderson kicked Zamora, causing him to fall [REDACTED]

Anderson landed on top of Wolleck, who was wedged between the bench seat and the gurney. Wolleck grabbed onto the loose handcuff to prevent it from injuring all parties and attempted to gain control of Anderson. Several officers arrived and attempted to assist in controlling Anderson, who still struggled violently with the officers. Ultimately, they were able to uncuff Anderson's right wrist and take Anderson out of the ambulance.

Anderson was rolled onto his stomach and continued to struggle with the officers, who were attempting to place him in handcuffs. During this time, Ward attempted to administer two Taser drive stuns to Anderson's body, but was not able to do this effectively because Anderson was constantly moving. After several minutes, the officers were able to secure Anderson in handcuffs. He was rolled onto his side and, shortly thereafter, his body became limp. He was transported to the hospital and died days later.

We find that Anderson placed Officer Wolleck and Paramedic Kratkin in a situation where either one of them could have been significantly injured. Anderson, who weighed over 200 pounds, ripped the handcuff from the gurney and struggled with Wolleck while lying on top of him. Wolleck rightly viewed a loose handcuff as a danger and grabbed onto the cuff, but was unable to free himself from Anderson's body weight. Zamora's use of the Taser in drive stun mode at this time and under these circumstances was reasonable, as Anderson was actively resisting the officers and posed a physical threat to them.

We further find that the remaining officers used reasonable force in an attempt to control Anderson, who was out of control, actively resisting the officers, and endangering their safety. Finally, we find that Ward's use of the Taser in drive stun mode while attempting to handcuff Anderson was within the range of reasonable conduct as officers who were using less-intrusive means did not appear to be able to control Anderson. Anderson continued to resist and struggle violently while officers attempted to handcuff him and several officers were unable to place him in handcuffs despite their best efforts. Under these tense circumstances, Ward's decision to use a Taser in drive stun mode was reasonable.

We conclude that Officers Timothy Wolleck, Pedro Zamora, Gerald Ward, Brett Cohen, Michael Hall, Jose Anzora, Samuel Hong, Robert Lisenby, Charles Winzer, Alejandro Carrillo, Casey Kiefer, Bruce Oakley, and Mark Kilgrow used reasonable force under the circumstances and are not criminally responsible for Anderson's death. We are closing our file and will take no further action in this matter.