

In-Custody Death of Arturo Mendoza

South Gate Police Department

Officer Edward Bolar, #10130

Officer Kenneth Haley, #10100

Officer Aaron Sosa, #10194

Officer Jose Gonzalez, #10203

J.S.I.D. File #19-0060



JACKIE LACEY

District Attorney

Justice System Integrity Division

January 22, 2020

MEMORANDUM

TO: CHIEF RANDY DAVIS
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FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: In-Custody Death of Arturo Mendoza
J.S.I.D. File #19-0060
S.G.P.D. File #19-01129
L.A.S.D. File #019-00015-3199-499

DATE: January 22, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 2, 2019, in-custody death of Arturo Mendoza. We have concluded that the force used by South Gate Police Department (SGPD) Officers Edward Bolar, Kenneth Haley, Aaron Sosa, and Jose Gonzalez in detaining Mendoza was reasonable. We further find the officers' actions did not cause Mendoza's death.

The District Attorney's Command Center was notified of the in-custody death at approximately 7:46 p.m., on February 2, 2019. The District Attorney Response Team (DART) responded to the location. They were given a briefing regarding the circumstances surrounding the incident, a "walk-through" of the scene, and participated in witness interviews.

The following analysis is based on investigative reports, transcripts of interviews, Body Worn Audio (BWA), video recordings, photographs, and the autopsy report submitted to this office by LASD Homicide Bureau Sergeant Marc Boskovich and Detective Joseph Manfree. The voluntary statements of Officers Bolar, Haley, Sosa, and Gonzalez were considered in this analysis.

FACTUAL ANALYSIS

On February 2, 2019, at approximately 5:52 p.m., Antonio S. heard a knock on the front door of his residence located in the City of South Gate. Antonio S. opened his front door but left the steel security door closed. He saw a man he did not recognize, later identified as Arturo Mendoza, standing outside his front door. Thinking Mendoza was a friend of his son, Antonio

M., he went and told Antonio M. to go to the door. When Antonio M. and his mother, Laura S., went to the front door, they also did not recognize Mendoza.

Mendoza was breathing heavily and flailing his arms around. Antonio M. stood behind the security door and asked Mendoza how he could help. Mendoza responded that he needed to call his mother. Antonio M. partially opened the security door and handed his phone to Mendoza, but Mendoza was unable to complete the call and gave the phone back to Antonio M.¹ Mendoza began grunting and did not look well. Antonio M. asked if he needed help and again opened the security door. Mendoza advanced forward and pushed Antonio M. and Laura S. as he entered the house. Antonio M. put his body in front of Mendoza to prevent him from going any further and told him to get out.

Antonio M.'s sister, Ixchel S., was in her brother's bedroom and heard Mendoza breathing heavily and stating that he thought he was having a panic attack. She then heard Mendoza enter the home and called 9-1-1. Laura S. also called 9-1-1 after Mendoza entered the home. Mendoza then exited the house through the front door and proceeded to pace around the driveway with his hands in the air screaming, "I can't breathe! I can't breathe!"

At 5:56 p.m., SGPD Officers Haley and Sosa were working in uniform and each was driving a marked black and white police vehicle. They heard a broadcast of a man forcing his way into a home, who had been thrown out and was now outside in the driveway screaming, possibly under the influence or having mental problems. The officers responded to the location, parked their vehicles, and approached the driveway together on foot. As they did so, they observed Mendoza pacing in the driveway while flailing his arms around and screaming. From approximately 20 feet away, Haley asked Mendoza what was going on, and Mendoza stated, "I've been acting up" because "I'm a big dummy." Mendoza was out of breath, moaning, and yelling. He was holding what appeared to be a cellphone in his right hand.

Haley and Sosa remained at a distance and attempted to engage Mendoza in conversation. Haley told Mendoza to drop whatever was in his hand and come over to him. Mendoza was unresponsive to the orders and continued to breathe heavily and scream incoherently. Mendoza then told Haley that he felt "angry and empty." Haley continued to speak with Mendoza and attempted to calm him down. Mendoza told Haley he felt like he was "going to die," but that he did not want to. At this time, Officer Bolar arrived at the location, joined by Officer Gonzalez shortly thereafter.

While attempting to speak with Mendoza, officers observed a clip in his right front pants pocket that they believed to be attached to a knife.² Bolar spoke to Mendoza, asked him his name, and told him to come over to him. Mendoza responded that his name was Arturo and stated, "I don't want to die." Mendoza continued to grunt, moan, and breathe very heavily. Bolar again told Mendoza to come talk to him and asked him, "What is happening?" Mendoza responded in an

¹ According to Antonio M., Mendoza tried to dial numbers but was unable to make a call. Initially, Antonio M. thought there was a medical problem with Mendoza, but as their interaction continued, he believed Mendoza was having both medical and mental issues.

² It was later discovered that the clip was attached to a garage door remote control.

excited and fearful tone that he was “scared, very, very scared.” It appeared to the officers that Mendoza was under the influence of an illegal substance and/or suffering from a mental illness.

For approximately three minutes, officers spoke with Mendoza, unsuccessfully trying to get him to calm down and comply with their orders.³ The officers decided to detain Mendoza so a burglary and assault investigation could be conducted. Bolar instructed other officers to flank Mendoza as he continued to converse with him. Sosa then grabbed Mendoza’s left wrist and tricep, and Bolar grabbed his right wrist. Mendoza tensed up, flailed his arms, and tried to pull away from their grasp. He resisted his arms being placed behind his back while screaming and repeatedly stating, “I will stop doing drugs” and telling one of the officers, “I know you. I know you.”

Bolar remained in control of Mendoza’s right hand, took a step back, and extended Mendoza’s arm so that it was straight. Mendoza continued to resist, and Bolar controlled his left arm while Sosa employed an armbar on his right arm.⁴ Once Bolar and Sosa controlled his arms, Haley wrapped his arms around Mendoza’s legs and lifted them off the ground. This enabled the officers to move him a few feet off the driveway and put him in the grass, laying on his stomach.

Once Mendoza was on the ground, Gonzalez was able to get his right arm behind his back and handcuff his wrist. Mendoza breathed heavily and screamed while officers repeatedly told him to relax. Mendoza placed his left arm under his stomach, and officers forcefully moved it from underneath his body and put it behind his back where it was handcuffed by Gonzalez. Once on the ground, it took approximately one minute and ten seconds to handcuff Mendoza.

As Mendoza laid face down on the ground, he screamed incoherently. Gonzalez patted Mendoza down as Bolar and Sosa rolled him to one side and emptied his left pocket. They then rolled Mendoza to the other side and emptied his right pocket. Mendoza flailed around and kicked his legs in every direction as he screamed and breathed heavily. Officers told him to stop kicking, but Mendoza did not comply.

Bolar asked the other officers for a hobble, which Haley had on his police duty belt.⁵ As Bolar attempted to control Mendoza’s upper body, Sosa and Gonzalez tried to restrain his legs. Haley handed the hobble to one of the other officers and then helped try to control Mendoza’s upper body. The officers repeatedly told Mendoza to stop kicking, relax, and to calm down. Mendoza breathed heavily and twice stated that he could not breathe. An officer stated that if he could talk, he could breathe.

Mendoza’s breathing and moaning became quieter as Haley employed a shoulder lock and another officer placed the hobble restraint around Mendoza’s ankles and put him in the T.A.R.P.

³ Unless otherwise indicated, all time estimates are based on the officers’ BWA recorders that were activated during the incident.

⁴ Sosa described the armbar as grabbing Mendoza’s left wrist with his left hand while placing his right forearm behind Mendoza’s tricep. Bolar maintained control of Mendoza’s left arm.

⁵ A “hobble” is a device used to secure the legs of a suspect.

position.⁶ Mendoza was rolled onto his side and the officers noticed he was unresponsive.⁷ Mendoza was unhandcuffed and the hobble was removed from his ankles. Bolar requested that the fire department respond to the scene. Mendoza was moved from the grass to the driveway, where Bolar checked for a pulse with negative results. Officers performed CPR on Mendoza and his pulse was restored briefly, but quickly lost again. Personnel from the Los Angeles County Fire Department arrived and began to administer CPR on Mendoza. Resuscitation efforts continued for approximately twenty-seven minutes but were unsuccessful. Mendoza was pronounced dead at 6:25 p.m.

Several neighbors witnessed the incident and provided statements to investigators. All the witnesses stated that they did not see any of the officers' punch or kick Mendoza. One witness, Talia M., stated that she saw an officer's left knee in the middle of Mendoza's back and another officer's right knee on the back of his neck. All other witnesses' statements were substantially the same as the officers' statements and opined that it appeared the officers were trying to help Mendoza.

Investigators recovered six videos taken by witnesses during and after the incident. One video was taken by a neighbor that lived across the street from where the incident occurred. It was recorded on a cell phone from inside his home, looking out a window. The video is 14 seconds long and the images are grainy. Mendoza can be heard yelling and the officers appear to take him down to the ground. The other five videos were recorded from inside Antonio S.'s home. Four of the videos show officers performing CPR on Mendoza. The fifth video captures the inside of the family room and kitchen of the home, and Mendoza can be heard yelling and moaning outside.

On February 5, 2019, Deputy Medical Examiner Timothy F. Dutra performed a postmortem examination on Mendoza. Dutra noted a rounded contusion on the chest, consistent with resuscitative efforts. Small to medium sized bruises were observed on Mendoza's left hand, right thigh, and both knees. According to Dutra, Mendoza also had abrasions located on his left forearm, right wrist, right shin, and anterior tibia. Dutra did not observe any internal injuries or fractures. A toxicology report revealed that Mendoza had 2.0 micrograms per milliliter of methamphetamine in his femoral blood at the time of his death.⁸ Dutra determined the cause of death to be acute methamphetamine toxicity.⁹

LEGAL ANALYSIS

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 reasonable force to make an arrest, prevent escape or overcome resistance, and

⁶ Officers' statements differ as to who applied the hobble. T.A.R.P. stands for total appendage restraint procedure and occurs when the hobble restraint is attached to the handcuffs.

⁷ Approximately 42 seconds elapse between Mendoza's last moan and when officers noticed he was unresponsive. The officers were completing the T.A.R.P. during that time.

⁸ According to Dr. Dutra, this dose is well into the usual reported range for attribution of lethality.

⁹ Dr. Dutra noted in his autopsy report that dilated cardiomyopathy (cardiac enlargement) was a contributing factor, but not related to the immediate cause of death.

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

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, 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

In this matter, Officers Bolar, Haley, Sosa, and Gonzalez were lawfully performing their duties when they attempted to detain Mendoza. Officers were advised that Mendoza had forced his way into a stranger’s home and was “thrown out.” They were investigating a possible burglary and assault. When they arrived, Mendoza was yelling incoherently and appeared to be under the influence of drugs or suffering from a mental illness. He refused to comply with the officers’ orders and was pacing, flailing his arms, and screaming. When the officers attempted to detain Mendoza, he resisted and was taken to the ground. Officers then handcuffed him. When Mendoza began kicking at the officers, a hobble was used to restrain his legs and he was put in the T.A.R.P. position. Mendoza became unresponsive and officers quickly removed the handcuffs and hobble and attempted to resuscitate him.

The evidence examined shows that the officers used reasonable force in detaining Mendoza. Additionally, the force used by the officers did not cause Mendoza’s death.

CONCLUSION

The evidence examined in this investigation shows that Officers Bolar, Haley, Sosa, and Gonzalez used reasonable force in their efforts to detain Arturo Mendoza, and their actions did not cause Mendoza’s death. We are closing our file and will take no further action in this matter.