

**In-Custody Death of Hector Bear
Hawthorne Police Department**

Officer Michael Grajeda, #50313

Officer Christopher Hoffman, #50308

Officer Alex Khan, #50368

Officer Lawrence Williams, #50371

J.S.I.D. File #14-0589



JACKIE LACEY

District Attorney

Justice System Integrity Division

May 16, 2016

MEMORANDUM

TO: CHIEF ROBERT FAGER
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CAPTAIN STEVEN KATZ
Homicide Bureau
Los Angeles County Sheriff's Department
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FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: In-Custody Death of Hector Bear
J.S.I.D. File #14-0589
L.A.S.D. File #014-00068-3199-499
H.P.D. File #14-11591

DATE: May 16, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 12, 2014, in-custody death of Hector Bear. It is the conclusion of this office that Hawthorne Police Officers (HPD) Michael Grajeda, Christopher Hoffman, Lawrence Williams, and Alex Khan are not criminally liable for Bear's death.

The District Attorney's Command Center was notified of this in-custody death on September 12, 2014. The District Attorney Response Team responded was given a briefing and walk-through of the scene by Los Angeles Sheriff's Department (LASD) Lieutenant John Corina.

The following analysis is based on police reports, the autopsy report, witness interviews, surveillance videotapes, police dash-camera recordings, and still photographs submitted to this office by Detectives Margarita Barron and Dameron Peyton of the Los Angeles Sheriff's Department Homicide Bureau. Voluntary statements from Officers Grajeda, Hoffman, Williams, and Khan were also considered in this analysis.

FACTUAL ANALYSIS

Introduction

On September 12, 2014, at approximately 11:21 a.m., Hawthorne Police Department Patrol Officers Michael Grajeda, Christopher Hoffman, Lawrence Williams, Alex Khan, and Lobue Gaetano responded to 9-1-1 call reporting a man, later identified as Hector Bear, running around with a knife in front of a residence. Bear was bleeding from his hands, breaking into cars, banging on doors, and possibly mentally ill or on drugs. Surveillance videotape shows that as

police were responding, Bear was walking and running erratically around the neighborhood, confronting and chasing people, attempting to break the back window of a car, and using a trashcan to hold himself up. His behavior drew the concern of several men in the neighborhood who confronted Bear. As officers were arriving, they received an updated radio communication that Bear had a documented history of mental illness. When the officers arrived, they saw Bear stumble into the street then run back to the sidewalk and use a telephone pole to hold himself up. While the officers used their vehicles as cover, they attempted to communicate with Bear and shouted, “Get on the ground! Get on the ground! “Hey, sit down bro! Sit down!” Hey buddy! Yo!” Bear did not respond to the officers but suddenly turned and ran directly toward Grajeda’s patrol vehicle. Bear stumbled and fell face first in the street in front of the vehicle and grabbed onto the undercarriage of the car. Officers pulled Bear away from the vehicle, rolled him onto his stomach, and handcuffed him. Moments later, Bear stopped breathing. The officers uncuffed Bear, called the fire department, performed CPR, and attached him to a defibrillator. Minutes later, the fire department arrived and took Bear to the hospital. He was pronounced deceased at 12:07 p.m. A postmortem examination was performed. Bear had the presence of methamphetamine and alcohol in his bloodstream. The cause of death was determined to be “sequelae of excited delirium from methamphetamine effect...with idiopathic cardiomyopathy.”¹

Statement of Eric Turano

Turano was inside of his residence when he heard yelling outside. He saw Bear banging on the front door of a neighbor’s residence. Bear was “mumbling, grumbling, deranged, and sounded nuts.” He was covered with blood and was “high or drunk”, acting belligerent, and threw a bloody planter against Turano’s front wall. Turano called 9-1-1.

Statement of Norm Goldbeck

Goldbeck said Bear came to the front of his residence and damaged his front window screen and tried to enter his front door. Goldbeck told Bear he was calling the police. Goldbeck had seen Bear “drunk” in the past but “never this bad.” Goldbeck called 9-1-1.

Statement of Maria Estrella

Estrella saw Bear walking down the street and he appeared to be under the influence of alcohol or drugs. She saw Bear smash the back window of a parked car and saw him bleeding from his arm. She had seen Bear act this way in the past and believed he had a drug or alcohol problem.

¹ “Excited delirium syndrome” is a potentially deadly medical condition involving psychotic behavior and an extreme fight-or-flight response by the nervous system. The mechanism in which the syndrome occurs is not fully understood by the scientific community but is believed to be linked to increased dopamine levels in the brain which results in fast heart rates, feelings of euphoria, and hallucinations. Highly addictive drugs, specifically cocaine and methamphetamine, increase the level of dopamine in the brain. Roach, Brian M.D., Nichols Kelley, M.D., and Burnett, Aaron M.D. Excited Delirium and the Dual Response Preventing In-Custody deaths, *Federal Bureau of Investigation Law Enforcement Bulletin* (2014). “Idiopathic cardiomyopathy” refers to heart failure that occurs spontaneously and with an unknown cause.

Statement of Joseph Carmire

Carmire saw Bear walking up and down his driveway and acting strangely, as if he was lost. Carmire asked Bear if he could help him. Bear walked away and Carmire followed him. He saw Bear get on top of a house and jump off the roof. He was surprised that Bear did not break his legs.

Statement of Michael Carranza

Carranza said Bear picked up an unknown object and charged at him. He noticed Bear was unsteady on his feet and tripped a few times. He saw Bear “beat up” a car and use an object to break the back window of the car. Bear ran away and attempted to break into other cars and residences. Bear returned and Carranza saw him bloody and with a knife in his hand. He was sweating and breathing heavily. Bear ran away again and he saw him “yank” on a flagpole in an attempt to pull down an American flag. He then charged at a stopped vehicle and threw an object at it. Carranza called 9-1-1.

Statement of Reyna Carranza

Reyna said she saw Bear “socking” the back of a car and it appeared that Bear was “delirious or on drugs.”

Statement of Isaiah Simon

Simon said he saw Bear “acting crazy.” Bear was hitting cars and cursing in Spanish. He smashed the back window of a car with a rock. He saw that Bear was bleeding. Fearing that Bear was going to arm himself or try to harm him, Simon drove away from the area with his girlfriend.

Statement of Officer Michael Grajeda

Officer Grajeda was the first officer to arrive after the 9-1-1 calls. He was flagged down by people in the neighborhood and directed to Bear’s location. He saw Bear stumble into the street and fall down. He told Bear several times to get on the ground but Bear did not comply. Bear was bleeding from the arm and ran toward his patrol vehicle and fell face first in the street. He grabbed onto the underside of the front bumper of Grajeda’s patrol vehicle. Officer Hoffman helped him pull Bear away from the car. Bear rolled onto his stomach and placed his arms underneath him. Other officers assisted him in placing Bear’s hands behind his back and handcuffing him. Bear then started to have medical complications so he was uncuffed. Hoffman and Officer Williams performed CPR on Bear. Officer Khan placed a defibrillator on Bear. The fire department arrived a short time later and transported Bear to the hospital.

Statement of Officer Christopher Hoffman

Hoffman responded to the 9-1-1 call and arrived at the scene and saw Grajeda and Officer Lobue exiting their patrol vehicles to contact Bear, who appeared to be hugging a telephone pole. Bear was bleeding and ran toward Grajeda’s patrol vehicle. Grajeda yelled, “Stop!” Bear fell in the street and grabbed the undercarriage of Grajeda’s vehicle. Bear’s teeth were clenched and his

jaw was rigid. He held onto to the car so firmly “his arm was shaking.” Grajeda pulled Bear away from the vehicle and Bear rolled onto his stomach. Hoffman attempted to get Bear’s hands behind his back by using a lateral head movement technique. Bear’s arms and head were too rigid and Hoffman was unable to move his head. Williams was able to get control of Bear’s right arm and put it behind his back, while Hoffman gained control of Bear’s left hand. Hoffman rolled Bear onto his side to search him. He saw Bear staring blankly and clenching his teeth and jaw and his jaw was flexing. His carotid artery and temple were pulsing. Hoffman told Sergeant Port, the field supervisor who arrived as Bear was taken into custody, that Bear was acting strangely. Port called for a rescue ambulance. Hoffman cradled Bear’s head and checked his pulse, which was racing too fast for Hoffman to count. He felt Bear’s pulse start to drop and he told the other officers to prepare to give medical aid and CPR. Williams uncuffed Bear and immediately started CPR compressions on Bear while Hoffman conducted breaths. Officer Khan attached a defibrillator to Bear, which instructed them to continue CPR. Hoffman and Williams continued CPR until the fire department arrived minutes later and took over.

Hoffman located Bear’s identification and saw that he lived nearby. He went to Bear’s residence and saw blood all over the front porch and a bloody kitchen knife in the front yard. He looked into the residence and saw blood spatter on the walls. Concerned that there might be someone needing assistance inside, he entered Bear’s apartment with other officers and saw blood on the floor and walls and in the sink. No one was in the residence.

Statement of Officer Lawrence Williams

Williams and Khan were on patrol and responded to a 9-1-1 call of a man “possibly 5150 or under the influence of narcotics, running around with a knife.” The man was also attempting to enter a residence. Williams and Khan arrived and saw Grajeda and Hoffman struggling on the ground with Bear. Williams placed his knee on Bear’s back in an attempt to limit his movements and grabbed Bear’s right wrist. Khan was able to cuff Bear’s right wrist while Hoffman cuffed Bear’s left wrist. They rolled Bear onto his side in a “recovery position.” Hoffman noticed that Bear’s pulse rate was very rapid so the fire department was called. Hoffman advised that Bear had stopped breathing. Williams started chest compressions on Bear while Hoffman provided breaths. They continued CPR until the fire department arrived minutes later and took over.

Statement of Officer Alex Khan

Khan was on patrol with Williams. He arrived at the scene and saw Grajeda and Hoffman struggling with Bear and ordering him to stop resisting. Believing that Bear may have had a knife in his left hand, Khan stepped on Bear’s left hand so he could not move it. That caused Bear to open his hand and Khan saw he did not have a knife. Khan assisted in handcuffing Bear and rolled him onto his side. Moments later Hoffman advised them that Bear had stopped breathing. Khan retrieved a defibrillator from Sergeant Port’s patrol vehicle and attached it to Bear.

Statement of Officer Gaetano Lobue

Lobue responded to a 9-1-1 call of a man with a knife. When he arrived, Grajeda was ordering Bear to get on the ground. Bear was standing near a telephone pole and not complying with Grajeda’s commands. Lobue turned away to retrieve his beanbag shotgun from his patrol

vehicle and when he looked back in Bear's direction, Bear was already on the ground in front of Grajeda's vehicle. Officers were able to handcuff Bear and shortly thereafter Bear became nonresponsive. Bear was uncuffed and the officers rendered medical assistance. Lobue did not assist in handcuffing Bear nor did he use any physical force against him.

Hector Bear's Background and Injuries

Bear's history includes arrests for possession of cocaine, being under the influence of drugs, and being under the influence of alcohol in a public place. He had several 72 hour psychiatric placements pursuant to Welfare and Institutions Code section 5150.

Bear was 48 years-old, 208 pounds, and stood five foot eight. He had a history of kidney disease and had a transplant approximately 20 years ago. The postmortem examination showed that one of the ventricles in his heart was enlarged and the toxicology report indicated he ingested methamphetamine and alcohol. Bear had a laceration on his right forearm and abrasions to his lower extremities. The cause of death was "sequelae of excited delirium from methamphetamine effect with idiopathic cardiomyopathy."

LEGAL ANALYSIS

A police officer may use reasonable force in making an arrest, preventing an escape, or in overcoming resistance.² 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.³

The evidence presented in this investigation, including the surveillance videotapes, support witness and officer accounts that Bear appeared to be suffering from a mental condition, was under the influence of drugs or alcohol, was confused, disoriented, stumbling, agitated, and violent. He was bleeding and chasing people. Bear ran in the street, threw objects at cars, attempted to break into residences and vehicles, jumped off a roof, and armed himself with a knife. When the officers contacted Bear, he was nonresponsive to their commands and charged at them, falling face-first to the ground before reaching them. Bear grabbed the underside of Grajeda's patrol car and when Grajeda pulled him away, Bear rolled onto his stomach and concealed his hands under his body, causing the officers to fear that he was armed. After a struggle of less than one minute, the officers were able to handcuff Bear and roll him onto his side to search him. Bear, who was mildly obese, had a history of drug and alcohol abuse, had ingested methamphetamine and alcohol, and had a history of kidney disease, stopped breathing. The officers immediately started CPR. Approximately eight minutes elapsed from the time officers first contacted Bear to the time the fire department arrived. In sum, the officers' use-of-force was reasonable and appropriate under the circumstances to overcome Bear's resistance and in an attempt to prevent him from further harming himself or others.

² Penal Code § 835a.

³ Graham v. Connor (1989) 490 U.S. 386.

Cause of Death

Although Bear struggled with the officers, there is no medical evidence that the struggle was a factor in Bear's death. Bear's death was unforeseeable and not a natural and probable consequence of the officers' actions, and therefore the officers are not the legal cause of his death and no criminal liability attaches.⁴

CONCLUSION

The minimal force used by Officers Grajeda, Hoffman, Williams, and Khan was reasonable under the circumstances and they are not criminally liable for Bear's death. We are closing our file and will take no further action in this matter.

⁴ "For liability to be found, the cause of the harm not only must be direct, but also not so remote as to fail to constitute the natural and probable consequence of the defendant's act." *People v. Roberts* (1992) 2 Cal. 4th 271.