

**In-Custody Death of Lee Hughes
Los Angeles Police Department**

**Sergeant Phillip Bobo, #24769
Officer Jake Choi, #41054
Officer Jeremy Hunt, #41065
Officer Michael Wyatt, #41093
Officer Albert Vasquez, 41092
Detention Officer John Marton, #N4111**

J.S.I.D. File #14-0465



**JACKIE LACEY
District Attorney
Justice System Integrity Division
March 28, 2016**

MEMORANDUM

TO: COMMANDER ROBERT A. LOPEZ
Force Investigation Division
Los Angeles Police Department
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 Lee Hughes
F.I.D. File #F036-14
J.S.I.D. File #14-0465

DATE: March 28, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 8, 2014 death of Lee Hughes while in custody of the Los Angeles Police Department (LAPD). For the reasons set forth below, we decline to initiate criminal proceedings against LAPD Sergeant Phillip Bobo, Officer Jake Choi, Officer Jeremy Hunt, Officer Michael Wyatt, Officer Albert Vasquez, and Detention Officer John Marton.

The following analysis is based on reports prepared by the LAPD, Force Investigation Division (FID), submitted to this office by Detective Timothy Brausam. The District Attorney's Command Center was notified of this in-custody death on July 8, 2014 at approximately 5:19 p.m. The District Attorney Response Team responded and was given a briefing of the circumstances and a walk-through of the scene. The compelled statements of Sergeant Phillip Bobo, Officer Jake Choi, Officer Jeremy Hunt, Officer Michael Wyatt, Officer Albert Vasquez, and Detention Officer John Marton were considered as part of this analysis.

FACTUAL ANALYSIS

On July 6, 2014, at approximately 12:10 p.m., LAPD Pacific Division Officers Jayson Siller and Jason Jaramillo responded to a call regarding an intoxicated man who was disturbing the peace. When they arrived, they observed Lee Hughes standing in front of an apartment building, holding an open beer can. Siller and Jaramillo arrested Hughes for an open container of beer, a violation of Business and Professions Code section 25620(a), and three outstanding misdemeanor warrants.¹ They transported Hughes to LAPD Pacific Division for booking.

¹ During the arrest, Siller and Jaramillo ordered Hughes to place his hands behind his back. Hughes stiffened his body. Siller and Jaramillo held Hughes' arms and forced him to the ground. Once down on the ground, Hughes immediately complied. He was taken into custody without any further incident. LAPD Sergeant Patricia Suarez responded to the scene. Hughes informed her that he did not have any injuries and did not desire any medical treatment. Suarez did not observe any injuries. When he was taken to Pacific Division for booking, the watch commander, Sergeant Sean Kinchla, noted in the Adult Detention Log that Hughes reported that he was not injured.

However, the jail facilities at Pacific Division were at full capacity due to the July 4th weekend, so Hughes was transported to the LAPD Jail Division, Metropolitan Jail Section (MJS), at 2:10 p.m.

When he arrived at MJS, at 2:45 p.m., Hughes was examined by a registered nurse, Susan Kiely. Kiely observed that Hughes appeared to be under the influence of drugs or alcohol. Following an interview of Hughes, Kiely noted in Hughes' medical record that he drank alcohol daily but was not currently experiencing tremors or other symptoms of withdrawal. Kiely also noted that Hughes denied suffering from any medical conditions and denied taking any medications. Kiely did not observe any injuries on Hughes. That same day, nurse practitioner Leah Ngure examined Hughes' medical records. Ngure prescribed Hughes Librium, Venlafaxine, folic acid, and thiamine in the event that he experienced any symptoms of alcohol withdrawal.² Ngure also ordered that Hughes' blood pressure be checked every morning and that he be monitored every four hours for signs of alcohol withdrawal.³

At 3:00 p.m., Hughes was released from the MJS dispensary and cleared for booking. Based on his condition, Hughes was assigned to a single man cell at MJS South Pod, C-Block.⁴ According to Hughes' medical records, a nurse offered Hughes these medications on July 7, 2014 at approximately 2:00 a.m., but he refused to take them. Hughes also refused to allow his blood pressure to be taken.⁵

During the evening of July 7, 2014 and the early morning of July 8, 2014, MJS Detention Officer (DO) Keith Williams observed that Hughes had not slept.⁶ He was walking around in his cell, yelling incoherently, and occasionally banging on the door with his hands and feet. When Williams spoke to him, Hughes did not respond. Williams did not observe any injuries on Hughes that evening. Because Williams believed that Hughes was already being treated by the medical staff, he did not report Hughes' behavior to any supervisors.

On July 8, 2014, Hughes was scheduled to be transported to court.⁷ At approximately 7:00 a.m., LAPD Officers Gregory Hope and Albert Vasquez observed Hughes naked in his cell.⁸ They

² Alcohol withdrawal symptoms can include anxiety, agitation, headache, disorientation, shakiness, sweating, insomnia, nausea, tremors, hallucinations, high blood pressure, and seizures. Librium is an anti-anxiety medication. Venlafaxine is an anti-depressant. Folic acid and thiamine are used to treat vitamin deficiencies associated with alcohol withdrawal syndrome.

³ Based on this order, nurses were supposed to respond to Hughes' cell every four hours to monitor him. This is independent of the 30 minute checks conducted by the custodial officers. Hughes' medical record shows that a nurse checked on him on July 6, 2014 at 10:00 p.m. At that time, he was resting and showed no signs of alcohol withdrawal. He was checked again on July 7, 2014 at 2:00 a.m. and showed no signs of withdrawal.

⁴ Inmates with mental health issues are generally assigned to South Pod, C-Block which has single man cells that are monitored approximately every 30 minutes.

⁵ There are no other notations in Hughes' medical records to show that a nurse checked on him in his cell after July 7, 2014 at 2:00 a.m.

⁶ An LAPD detention officer is a civilian employee whose duties include maintaining and operating LAPD jail facilities. Williams' shift began on July 7, 2014 at 6:30 p.m. and ended on July 8, 2014 at 7:00 a.m. He checked the cells in C-Block periodically from 12:27 a.m. to 6:31 a.m.

⁷ Hughes was originally scheduled to go to court on July 7, 2014. However, MJS personnel were unable to locate his property to transport with him. Therefore, Hughes was rescheduled for the following day.

⁸ Hope stated that it was not unusual for inmates to remove all of their clothing. Hope observed this occur approximately once a week.

notified Senior Detention Officer (SDO) Gary Wint of Hughes' condition. Wint continued to monitor Hughes periodically. At approximately 10:00 a.m., DO John Marton observed that Hughes had his hands in the toilet and that the floor and the blankets inside of Hughes' cell were wet. At approximately 11:30 a.m., Officer Michael Wyatt brought Hughes his lunch. He slid it through the food tray slot, but Hughes was pacing back and forth, talking incoherently. Hope did not believe that the Los Angeles Sheriff's Department (LASD) would agree to transport Hughes to court due to his erratic behavior. Because Hughes was originally arrested by officers from LAPD Pacific Division, Pacific Division Officers Renee Minnick and Craig Markel were called to specially transport Hughes to court.

[REDACTED]
[REDACTED]
[REDACTED]. Vasquez requested that Assistant Watch Commander Sergeant Bobo respond to Hughes' cell to evaluate the situation. Bobo, Wint, and Marton responded to Hughes' cell where Vasquez was waiting. They observed Hughes' cell to be in disarray. Hughes was sitting on the bed, completely naked, with a brownish substance on his body.⁹ There appeared to be food, urine, and feces spread all over the cell. The floor appeared to be wet. Wint attempted a conversation with Hughes and tried to convince him to put on clothing, but Hughes did not respond.

Minnick and Markel arrived at MJS at approximately 12:21 p.m. Shortly thereafter, they walked to C-block where Hughes' cell was located. When they arrived, they observed Hughes acting strangely. He was completely naked in his cell with a fixed stare, walking around as if in a daze. Markel observed Bobo and the other officers standing outside of Hughes' cell, attempting to convince him to put on clothes. Minnick and Markel determined that they could not transport Hughes to court in their patrol vehicle given his condition. After consulting with Bobo, they decided that Hughes was to be transported to Los Angeles County Medical Center (LACMC) for a psychiatric evaluation pursuant to Welfare and Institutions Code section 5150.¹⁰

The officers ordered Hughes to walk to the door and put his hands through the food slot so that the officers could handcuff him.¹¹ Hughes did not respond. Based on his observations, Bobo determined that Hughes would possibly require extraction from his cell.¹² Bobo called for additional officers to assist him via his police radio. LAPD Officers Wyatt, Hunt, Vasquez, Choi, Wint and Marton responded. Bobo ordered Wyatt to retrieve a shield and helmet for the extraction. Bobo also ordered DO Christopher Esquivel to retrieve a video camera.¹³

By the time Wyatt returned with the gear, Hughes had started responding to some commands. Hughes had gotten off the bed and walked to the door. He turned around, placing his bare

⁹ [REDACTED].

¹⁰ Minnick called the LAPD Mental Evaluation Unit (MEU) and was informed that MEU does not get involved with an inmate at MJS. Therefore, Bobo and Minnick decided that Hughes would be released on his own recognizance and Minnick would place a temporary psychiatric hold on him pursuant to Welfare and Institutions Code section 5150.

¹¹ The cells in C-Block have solid walls and doors with a slot that can be opened to pass food trays through the door.

¹² Extraction is required when an inmate refuses to exit his cell. It involves guards entering the cell wearing helmets with clear face masks and shields.

¹³ Per MJS policy, all cell extractions must be videotaped.

buttocks against the food slot in the door.¹⁴ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁴ [REDACTED]

¹⁵ [REDACTED]

Additionally, the security cameras within MJS were not functional at the time due to a recent power surge at the facility. Therefore, no portion of the incident was recorded.

¹⁶ The floor of the cell was extremely slippery as it was covered in food, urine, feces, and other fluids.

¹⁷ Hughes' cell was approximately ten feet and ten inches deep and five feet and eight inches wide. The concrete walkway in front of the cell is approximately three feet nine inches. Hughes' cell was on the second level of C-Block. There was a concrete walkway in front of Hughes' cell that has a metal railing. The middle of C-block is open to the first level.

¹⁸ [REDACTED]

¹⁹ [REDACTED]

²⁰ The spit mask is a hood with a mesh front that covers the individual's face. It has two long strings attached to the front of the mask. To secure the mask, the strings run down the front of the individual's shoulders and under their armpits. The strings are tied together in back after being run through a loop attached to the back of the spit hood. There are no strings or other constraints across the individual's neck.

²¹ A wheelchair is commonly used to transport uncooperative inmates. [REDACTED] r.

At 1:12 p.m., the officers wheeled Hughes down to the dispensary for a medical examination.²² Dr. Jacquelyn Frazier conducted a brief examination of Hughes.²³ Dr. Frazier checked Hughes' vital signs and attempted to ask him questions, but Hughes did not respond. She observed that Hughes appeared agitated, but that his eyes and skin color appeared normal. She noted in his medical record, "Hyperventilating. Sweating. Won't answer questions. Won't stop breathing fast." Frazier did not observe any injuries on the exposed parts of Hughes' body.²⁴ She stated that, despite the rapid breathing, Hughes did not appear to be in any distress. Frazier medically cleared him for transport to LACMC for mental evaluation.²⁵

Following the medical exam which took approximately 10 minutes, Wyatt and the other officers wheeled Hughes to a holding cell adjacent to the dispensary to wait for an ambulance to transport him to the hospital. Hughes remained in the wheelchair, facing the wall of the open cell. Hunt, Minnick, and Martel remained with him. Hughes began wriggling around and attempting to get out of the chair. Hunt placed his hands on Hughes' shoulders to keep him seated and instructed Hughes to relax. Hughes began screaming and continued to try to slide off the chair.

DO George Vu observed Hughes actions and went to assist Hunt. Several times, Hughes slid forward, off the chair until he was almost seated on the floor in front of the chair. Hunt grabbed one arm and Vu grabbed the other to hold Hughes in the chair. Hunt secured Hughes to the left armrest of the wheelchair with an additional pair of handcuffs. Hughes continued to struggle, sliding off the front of the chair and onto the floor. He continued to scream as he kicked the wall. At one point, Hughes began striking his head against the cement wall. Hunt placed his hand on the side of Hughes' head in an attempt to prevent him from injuring himself. Hunt and Vu attempted to hold the straps of the spit hood to keep Hughes' head still. Hughes became still but remained on the floor. Officers Jeremy Lapworth and Jake Choi responded to assist. Lapworth, Hunt, and Vu lifted Hughes back into the wheelchair by his arms.

Hughes remained calm for a short period. Suddenly, he became agitated once again and began moving around in the wheelchair. DO Rene Sandoval, DO Jean Paul Olivares, Officer Jorge Zembrano, and Esquivel arrived to assist. As Hughes continued to slide off the chair, they lifted him back up by the armpits.

Approximately 30 to 40 minutes later, Dr. Frazier and Nurse Olvera exited the dispensary and observed Hughes in the holding cell. He was still seated in the wheelchair with the spit hood over his head. Frazier conducted a brief examination and noted that Hughes was breathing. She

²² Whenever there is a use of force, an inmate is taken to the dispensary to get checked for injuries by medical personnel.

²³ During the examination, Hughes remained handcuffed to and seated in the wheelchair and the spit hood remained over his head.

²⁴ Nurses Annette Olvera and Arturo Norona were present during Frazier's exam. They did not observe any injuries on Hughes.

²⁵ LAPD defines a categorical use of force incident as one involving the use of deadly force by an LAPD officer, including officer involved shootings, neck restraints, head strikes, law enforcement related injury where the use of force requires hospitalization of the arrestee, and all other uses of force resulting in death. This incident was later reclassified as a categorical use of force incident. Based on Frazier's examination, the on-duty watch commander, Sergeant Felix Pena, determined that the incident involved a non-categorical use of force. Therefore, Hughes' cell was not preserved for evidence and was cleaned immediately. Additionally, the officers involved were not isolated and were allowed to change their uniforms which were covered in urine and fecal material.

also observed that his extremities were not blue and that he was able to move his legs.²⁶ At this time, Olvera noticed bruising on Hughes' right chest area that she had not previously seen.

A few minutes after Frazier checked Hughes in the holding cell, at approximately 2:02 p.m., a Los Angeles Fire Department (LAFD) rescue ambulance arrived in the sally port of MJS. Esquivel and Choi wheeled Hughes out of the building into the sally port, tilting the chair backwards so that Hughes could not slide out. At 2:04 p.m., a second LAFD ambulance arrived. LAFD Paramedic Raymond Crawford began an initial assessment of Hughes.²⁷ As he was speaking with Frazier and the officers, Crawford noticed that Hughes began to appear agitated and exhibited nystagmus. Crawford believed that Hughes was suffering from agitated delirium and planned to treat him with a sedative.²⁸ As Crawford and Michael Conway, were awaiting approval for the medication, they observed via cardiac monitor that Hughes' blood pressure and heart rate dropped. Hughes went into cardiac arrest. The officers removed the handcuffs and Olvera removed the spit mask. The paramedics placed Hughes on a gurney and performed cardiac pulmonary resuscitation. At 2:26 p.m., the paramedics transported Hughes to LACMC where he was pronounced dead by Dr. Manuel Montano at 4:05 p.m.

Autopsy

Deputy Medical Examiner Vadims Poukens, M.D. performed the autopsy on Hughes on July 15, 2014. Hughes had multiple abrasions and bruises on his chest, left back, arms, hands, legs, feet, and groin. He did not have any internal or skeletal injuries. The toxicology report indicated the presence of marijuana in Hughes' blood. Poukens noted that alcoholic liver disease, probable alcohol withdrawal syndrome, and ischemic heart disease were contributing factors but not related to the immediate cause of death. Dr. Poukens opined that the immediate cause of death was due to "restraining maneuvers and other undetermined factors." He could not determine whether the death was an accident or homicide.

LEGAL ANALYSIS

Penal Code section 148(a)(1) provides that "[e]very person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician...in the discharge or attempt to discharge any duty of his or her office or employment" is guilty of a crime. Penal Code section 835(a) provides that "[a]ny peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or overcome the resistance."

Penal Code section 831(a) provides that "[a] custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of a city or county who has the authority and responsibility from maintaining custody of prisoners and performs tasks related to the operation of a local detention facility used for the detention of persons...." Penal Code section 831(f)

²⁶ Due to some confusion, the rescue ambulance was not summoned until Frazier exited the dispensary and saw that Hughes was still there. Sergeant Christopher Carson called for an ambulance via his police radio.

²⁷ Frazier did not intervene once the paramedics arrived.

²⁸ Agitated (or excited) delirium is characterized by agitation, aggression, acute distress and sudden death typically as a result of cardiopulmonary arrest.

provides that a “custodial officer may use reasonable force in establishing and maintaining custody of persons delivered to him or her by a law enforcement officer....”

“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 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. Conner, (1989) 490 U.S. 386, 396-397.

CONCLUSION

In this case, Hughes was in custody at MJS following an arrest for an open container of alcohol and three outstanding misdemeanor warrants. On August 8, 2014, he was scheduled to be transported to court. Based on Hughes’ erratic behavior, Hope determined that LASD would not take custody of or transport Hughes to court. Minnick and Markel from LAPD Pacific Division arrived to provide special transport for Hughes. However, when they saw his condition, they consulted with Bobo and determined that Hughes should be brought to LACMC for a psychiatric evaluation.

[REDACTED]

The officers were performing their duty in attempting to remove Hughes from his cell for transport to LACMC. However, Hughes actively resisted their attempts to handcuff him. In order to control him, they brought him to the ground and used their arms and body weight. The officers did not use any weapons nor did they deliver any blows or strikes during this incident. The force they used in handcuffing Hughes was reasonable given his active resistance and the slippery condition of his body.

Though Hughes had bruising on his chest, arms, hands, feet and legs, it is uncertain how Hughes’ injuries were sustained. Following the use of force, Hughes was examined by a medical doctor and two nurses. At that time, they did not observe any injuries. For the next 40 minutes, Hughes was handcuffed in a holding cell. During that time, he was attempting to slide out of the wheelchair, moving his body from side to side, and shaking his head. The defense could argue that the injuries to his arms and the right side of his chest were caused by Hughes striking the armrests and other hard portions of the wheelchair. Even if they were caused during the officers’ attempt to handcuff him, the force they used was minimal and reasonable under the circumstances.

Furthermore, based on the autopsy report, it cannot be determined what caused Hughes' death. Dr. Poukens opined that the cause of death was restraining maneuvers and other undetermined factors. However, he could not determine if the death was accidental or a homicide. Poukens also stated that alcoholic liver disease, probable alcohol withdrawal syndrome, and ischemic heart disease were contributing factors but not related to the immediate cause of death. Based on the ambiguous results of the autopsy, the cause of death cannot be proven beyond a reasonable doubt.

We conclude that Sergeant Phillip Bobo, Officer Jake Choi, Officer Jeremy Hunt, Officer Michael Wyatt, Officer Albert Vasquez, and Detention Officer John Marton applied lawful force in attempting to handcuff Hughes and remove him from his cell and are not criminally responsible for his death. We are closing our file and will take no further action in this matter.