



# Sacramento County District Attorney's Office

ANNE MARIE SCHUBERT  
District Attorney

Stephen J. Grippi  
Chief Deputy

Michael A. Neves  
Assistant District Attorney

November 30, 2017

Chief Brent Newman  
California Highway Patrol – Valley Division  
2555 1<sup>st</sup> Avenue  
Sacramento, CA 95818

Re: In-Custody Death – Christopher Victor Murphy (DOB 11/23/75)  
CHP Report No. 2016-00040  
Date of Incident: December 7, 2016

Dear Chief Newman:

The above case was referred to this office for review of the circumstances surrounding the death of Christopher Murphy.

On December 7, 2016, at approximately 10:00 p.m., Murphy and his girlfriend had a dispute in their driveway. He grabbed car keys from her hand and entered her mother's 2001 Toyota Highlander. His girlfriend tried to prevent Murphy from leaving, but was unsuccessful. She called the California Highway Patrol (CHP) and reported this incident. She told the dispatcher Murphy was on methamphetamine and talking irrationally.

At approximately 11:26 p.m., Murphy was driving on Interstate 5 (I-5) south of the Sacramento International Airport and took the transition ramp to northbound Highway 99. Once on Highway 99, he pulled to the center divider, made a U-turn, and proceeded southbound in the northbound lanes. Murphy continued on Highway 99 in the wrong direction, approached the transition for I-5, and drove northbound on I-5 in the southbound lane, which caused oncoming vehicles to swerve out of the way. At one point, Murphy slowed down, pulled up alongside a vehicle, and yelled, "Call the cops. My wife just attacked me."

A female driver and her three-year old child were in a 2008 Toyota Sequoia travelling southbound on I-5 in the far-left number one lane. Approximately one mile south of the airport, she observed headlights approaching her and had no time to react. Murphy collided into her vehicle head on. Her damaged vehicle came to rest in the center divider and Murphy's vehicle flipped on its side between the center divider and number one lane and caught fire. As other people stopped to help, Murphy exited his vehicle, approached the Toyota Sequoia, and opened the passenger door. Murphy grabbed something from inside her vehicle and screamed, "There's more children in the car, there's more children in the car" and ran off. Murphy ran around, screamed, looked at the female, and yelled, "That's my wife and baby." He continued to run towards other vehicles and screamed "There's more babies." Murphy approached the female

again, grabbed her child's head, and said, "Oh, that's not my baby." Murphy ran back to his vehicle and tried to push it over. He screamed at passing vehicles while holding a license plate, yelled he was being chased from the Capitol, and made other incoherent statements. The female believed Murphy was on drugs and distanced herself. She and her child suffered minor injuries. Other witnesses checked Murphy's vehicle and did not find any children. They also described Murphy reaching into or holding onto a passing vehicle as it drove through the scene.

Dispatchers advised law enforcement officers that a traffic collision involving a wrong-way driver occurred on southbound I-5. CHP Officer Adam Poole arrived at the scene and parked his patrol vehicle in the number one lane to block traffic from hitting the debris. It was dark and the weather was cold and rainy. Officer Poole contacted Murphy, who was standing outside his vehicle, and Murphy stated that someone was inside. Officer Poole retrieved a fire extinguisher from the rear of his patrol vehicle. During this time, Murphy began walking into the number one lane while waving his arms and then proceeded to the number two lane where traffic was moving approximately 20-25 miles per hour. Officer Poole yelled at Murphy to get out of the lane and return to the center divider, but Murphy did not comply.

Officer Nicholas Helfrich arrived at the scene and observed Murphy's actions. Based on the traffic, wet road conditions, rainy weather, limited lighting, and diminished view, he was concerned that Murphy could cause another accident or get struck by oncoming vehicles in the number two lane. Officer Helfrich grabbed Murphy's arm, spun him around, and tried to guide him towards the center divider. Murphy yelled, resisted, and pulled the officer towards the number two lane. Officer Poole then came over and also grabbed Murphy's arm. Murphy continued to struggle, so Officer Helfrich swept Murphy's leg and Officer Poole assisted in taking Murphy to the ground in the number one lane. The officers struggled with Murphy as he kept fighting and refused their orders to give them his hands. The officers instructed Murphy to stop fighting and calm down. Officer Poole deployed his Taser several times at Murphy, but there was no effect and both officers had difficulty controlling him. Officer Michael Simpson arrived on the scene and tried to control Murphy's legs, but he got kicked multiple times. Officer Simpson deployed his Taser and the officers were successful in placing handcuffs on Murphy. Murphy continued to resist and kick his legs, so Officer Simpson put leg restraints on Murphy and placed him on his right side. Officer Poole noticed that Murphy's face was pale and he was not breathing. Officer Poole immediately began cardiopulmonary resuscitation (CPR). Other officers also provided medical aid and an ambulance was requested.

Sacramento Metropolitan Fire District personnel arrived and continued medical treatment. Murphy was transported to UC Davis Medical Center where he was pronounced deceased at approximately 12:34 a.m.

Murphy's girlfriend told investigators that he was up for three days using methamphetamine. He was paranoid and stated that people were following and watching him. As a result, he covered the lens on his cell phone and bought cameras to place around the house.

The Mobile Video and Audio Recording System in the officers' patrol vehicles were reviewed. These videos show Officer Helfrich arriving at the scene and Murphy walking in the number one lane. Officer Helfrich directs Murphy to return to the center shoulder, but he walks away

towards the number two lane. An officer can be heard yelling, "Get on the shoulder." Officer Helfrich grabs Murphy and guides him back towards the center shoulder. Murphy resists and tries to flee. The video depicts Officer Poole arriving to assist and Officer Helfrich leg sweeping Murphy to the ground near the number one lane. While Murphy continues to struggle with officers on the ground, Officer Poole reaches for his Taser and deploys it. The officers yell, "Give me your hands," "On your back," and "Stop fighting," as Murphy continues to struggle and kick the officers. Other officers arrive to help detain Murphy and eventually provide medical assistance.

The Sacramento County District Attorney's Crime Lab confirmed the presence of 221 ng/mL of methamphetamine in a sample of Murphy's blood. According to the criminalist who tested the sample, this amount of methamphetamine is a toxic level.

Forensic Pathologist Jason Tovar, M.D., conducted an autopsy and concluded that the cause of Murphy's death was sudden death during restraint in a setting of cardiomegaly and methamphetamine intoxication. He also noted that Murphy suffered electro-muscular disruption device skin injury, blunt force injuries to the right shoulder and back, cardiomegaly with hypertrophic changes, lung congestion, and steatosis. The report stated that multiple factors potentially played a role in Murphy's death: (1) a prolonged episode of agitation, erratic behavior, and physical exertion including a motor vehicle accident prior to contact with law enforcement, (2) methamphetamine intoxication, and (3) physical altercation with law enforcement including electronic control device use. The report further stated that the exact role all of these factors played in the death could not be determined.

### **LEGAL ANALYSIS:**

The Office of the District Attorney investigates cases of officer-involved deaths for the purpose of assessing and applying the law relating to police use of force and to determine if the officers' acts fall within the state laws of criminal responsibility. This office conducted its review by applying the facts of this case to the controlling legal authority. The authority applicable here included California Penal Code sections 834, 834a, 835a, 843, 192(b) and state and federal published cases.

Under the circumstances, CHP officers had probable cause to take Murphy into custody. Officer Helfrich observed Murphy walking onto I-5 and wandering between the number one and two lanes, as oncoming traffic was approaching. Concerned for his safety, the officers instructed Murphy to come back and guided him towards the center shoulder. However, Murphy resisted Officer Helfrich and tried to flee back into traffic. The officers had sufficient reasonable articulable suspicion to detain him to prevent Murphy from harming himself and other drivers. When Murphy was on the ground and refused to comply with orders to give up his hands and stop fighting, Officer Poole deployed his Taser to control Murphy. As officers attempted to detain him, Murphy continued to struggle and kick the officers. Murphy's actions caused Officer Simpson to deploy his Taser. When a person is being detained by a peace officer, it is the duty of that person to refrain from using force to resist the detention or arrest. (Penal Code § 834a; *Evans v. City of Bakersfield* (1994) 22 Cal.App.4<sup>th</sup> 321.) Additionally, Murphy violated Penal Code section 148 by failing to comply with the officers' orders and by physically resisting them.

Because the officers' efforts to detain and take Murphy into custody were lawful, and there is no credible evidence to support a finding that any of the officers intentionally tried to harm him, the only possible source of criminal liability is under California Penal Code section 192(b), involuntary manslaughter. The relevant portion of Penal Code section 192(b) defines involuntary manslaughter as a "killing . . . in the commission of a lawful act which might produce death . . . without due caution and circumspection." The statutory phrase "without due caution and circumspection" has been described by the California Supreme Court as the equivalent of "criminal negligence." (See *People v. Penny* (1955) 44 Cal.2d 861, 869-880; *People v. Stuart* (1956) 47 Cal.2d 167, 173-174.)

Under California law, more than ordinary negligence is required to support a charge of involuntary manslaughter. Evidence must prove that a person acted in an aggravated, culpable, gross or reckless manner, a manner so imprudent as to be incompatible with a proper regard for human life, or in other words, a disregard of human life or an indifference to consequences of the act. (*Somers v. Superior Court* (1973) 32 Cal.App.3d 961, 968-969.) Further, the evidence must prove that the consequence of the negligent act could reasonably have been foreseen, and it must appear that the death or danger to human life was not the result of inattention, mistaken judgment or misadventure, but the natural and probable result of an aggravated, reckless, or grossly negligent act. (*People v. Villalobos* (1962) 208 Cal.App.2d 321, 326-328; *People v. Rodriguez* (1960) 186 Cal.App.2d 433, 437-441.)

Although the term "negligence" is used in both criminal and civil actions, it is defined differently in each. Criminal negligence differs from civil, or "ordinary negligence," in that it requires a finding of more aggravated reckless conduct (i.e., the standard of measuring the conduct itself is greater). Furthermore, criminal negligence requires a higher standard of proof than ordinary negligence (i.e., proof beyond a reasonable doubt).

The determination of whether or not conduct rises to the level of criminal negligence must be determined from the conduct itself and not from the resultant harm. (*Somers v. Superior Court, supra*, 32 Cal.App.3d at p. 969; *People v. Rodriguez, supra*, 186 Cal.App.2d at p. 440.) Consequently, the law requires us to set aside the hindsight that a death resulted in this case, and also abstain from considering whether or not the officers' actions amounted to ordinary negligence.

As noted by the coroner, Murphy's physical exertion and methamphetamine intoxication contributed to his death. Murphy never told officers about any medical condition that would have affected how they handled his detention and arrest. Murphy exhibited no signs indicating there was anything physically wrong that should have been checked by medical personnel prior to him becoming unresponsive. Immediately upon realizing Murphy had become unresponsive, officers checked his condition, requested medical assistance, and performed CPR until medical personnel arrived.

It cannot be said that the officers acted in an aggravated, culpable, gross, or reckless manner. They did not act with a disregard for human life or an indifference to the consequences of their actions. In fact, the officers clearly demonstrated a proper regard for human life.

## **CONCLUSION**

Applying the controlling legal standards to the factual record in this case, we find no credible evidence to support an allegation of criminal negligence or excessive force against any of the officers involved with Christopher Murphy's arrest. Murphy's death was not the result of inattention, mistaken judgment, or misadventure. To the contrary, the objective evidence supports a finding that the officers' conduct was reasonable given the circumstances they encountered.

While this case presents a tragic situation, our decision here, as in any case, must be based on what the evidence proves. Accordingly, there is no legal basis for any further action by our office.

cc:    CHP Officer Adam Poole #17874  
      CHP Officer Nicholas Helfrich #18205  
      CHP Officer Michael Simpson #17351  
      CHP Investigator Jason Craven # 14742  
      Sacramento County Coroner Kimberly Gin