



Sacramento County District Attorney's Office

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DATE: January 19, 2021

TO: Chief Daniel Hahn
Sacramento Police Department
5770 Freeport Boulevard
Sacramento, CA 95822

FROM: Sacramento County District Attorney's Office

SUBJECT: In-Custody Death – Mario Matthews (DOB: 11/25/1979)
SPD Report No. 2019-208038
Date of Incident: July 2, 2019

The District Attorney's Office has completed an independent review of the above-referenced in-custody death. Issues of civil liability, tactics, and departmental policies and procedures were not considered. We only address whether there is sufficient evidence to support the filing of a criminal action against any peace officer in connection with the death of Mario Matthews. For the reasons set forth, we find no evidence of criminal misconduct by any of the law enforcement officers involved.

The District Attorney's Office received and reviewed written reports and other items, including: Sacramento Police Department report number 2019-208038 and related dispatch recordings, witness interview recordings, 9-1-1 audio recordings, body-worn camera video recordings, surveillance video recordings, photographs, diagrams, Sutter General Medical Center records, Sacramento County Laboratory of Forensic Services Toxicology and Blood Alcohol reports, and the Sacramento County Coroner's Final Report of Investigation.

FACTUAL SUMMARY:

On July 2, 2019, at approximately 3:33 a.m., the Sacramento Police Department Communications Center received a call that a subject had trespassed into the Golden One Center while an employee was washing the windows. The subject was later identified as 39-year-old Mario Matthews. The caller advised that Golden One Center security officers attempted to get Matthews out of the building, but he was running around inside the arena.

Multiple witnesses were working inside the arena when Matthews entered. They observed Matthews running down the aisles and ultimately onto the basketball court. They noted he appeared to be under the influence of alcohol and/or drugs. The witnesses described how Matthews pretended to play basketball, danced around as if he was drunk, jumped over chairs, and fell as he ran down the arena staircase.

Security officer Drake Quitugua was on duty that early morning for Allied Universal Security, the company hired by Downtown Commons to provide security for the Golden One Center and the surrounding area.

Quitugua was performing his daily rounds outside the arena. He saw Matthews enter the Golden One Center through the northwest entry door and close the door behind him. Quitugua radioed to his dispatch to call the Sacramento Police Department. He then contacted another Allied Universal Security officer, Chaz Hayes, for assistance. Quitugua also radioed Sacramento Kings security.

When he received the call from Quitugua, Hayes was at 7th and K Streets, within 300 feet of the Golden One Center. Hayes ran to the Golden One Center and Quitugua was at the front entrance. They both went inside.

Quitugua and Hayes observed Matthews on the basketball court acting as though he was under the influence. Matthews was shirtless with black pants and red shoes. A Sacramento Kings security officer, Mike Valentine, was present and he attempted to speak with Matthews. Valentine noted that Matthews was mumbling, and he could not understand him. Valentine did not feel comfortable standing next to Matthews, so he attempted to communicate with Matthews from the opposite side of the basketball court.

Quitugua and Hayes approached Matthews on the basketball court. Quitugua instructed Matthews to stop and put his hands behind his back. Matthews did not comply and instead ran toward the visitors' tunnel. Matthews was screaming, bantering with himself, and not making sense. When Quitugua and Hayes attempted to apprehend Matthews, Matthews threatened to kill them. Quitugua and Hayes followed Matthews into the visitors' tunnel and they cornered him there. Matthews grabbed a nearby stanchion, an upright pole connected by nylon tape to another pole, and knocked it over. He continued to hold the pole by the nylon tape.

Quitugua retrieved his pepper spray but elected not to use it out of concern for Hayes and Valentine. Instead, Quitugua handed the pepper spray container to Valentine, and he and Hayes attempted to restrain Matthews.

Hayes was able to grab Matthews' hands and Quitugua retrieved his handcuffs. Matthews then went to the ground himself. Quitugua and Hayes began to handcuff Matthews, but he remained resistive and began to kick while on the ground. Quitugua got Matthews' right wrist in the cuff but struggled with Matthews' left wrist. Matthews was tightening the handcuffs himself which caused visible injuries to his wrist. As Matthews was on the ground, Matthews' pupils looked huge to Quitugua. Matthews appeared to Quitugua to have extra strength from being under the

influence of drugs. As Hayes tried to handcuff Matthews, he heard Matthews say, “I’m gonna kill you guys.”

Matthews was fully handcuffed at approximately 3:36 a.m., and Quitugua and Hayes waited for the Sacramento Police Department to arrive. During this time, Matthews was lying flat on his stomach. Matthews continued to kick at Quitugua and Hayes and he tried to bite them. Matthews also repeated that he would kill them. Quitugua, who weighed 160 pounds, held his body on top of Matthews to keep him from resisting and used his knee to press down between Matthews’ shoulder blades. He had his other knee by the ear and neck of Matthews. Hayes controlled Matthews’ legs and a third Allied Universal Security officer, Jamonte Frazier, came over, placed his knee on Matthews’ shoulder, and held down Matthews’ hands. At one point, Quitugua removed his knee from the neck of Matthews and instead used his hand to hold Matthews’ head to prevent Matthews from resisting. All three security officers continued to hold Matthews down while they waited for law enforcement to arrive.

Quitugua noticed that Matthews’ mouth was bleeding but did not know why. Quitugua called dispatch, told them to notify Emergency Medical Services, and requested that the Sacramento Police Department come quickly since Matthews was being very resistant.

Sacramento Police Officer Mason McCann was the first peace officer to arrive. Officer McCann was on graveyard duty and received a dispatch regarding this incident at approximately 3:39 a.m. Upon arrival, Officer McCann spoke to two janitors working when Matthews trespassed into the Golden One Center. They stated that Matthews had run inside, and they were unsure whether he had been pinned down by security or was cornered. Officer McCann updated his location to his partner. He was told by Valentine that three Golden One Center security officers were actively pinning Matthews down. Valentine also told Officer McCann that Matthews was bleeding. Officer McCann put on protective gloves. Based upon this information, Officer McCann decided to enter the Golden One Center to find Matthews. He arrived on scene at approximately 3:49 a.m., 13 minutes after the security officers had placed the handcuffs on Matthews.

When Officer McCann arrived at the visitors’ tunnel, he saw Matthews actively resisting the security officers. Officer McCann stated to Matthews, “Hey, hey, hey, the police department is here, we’re going to talk to you, but you need to chill out, alright. We’re going to walk you out of this place.” Officer McCann, Quitugua, and Frazier attempted to stand Matthews up. As they stood him up, Matthews was physically and actively resisting by throwing his shoulders and hips about. Officer McCann and the security officers told Matthews to stop several times, but when Matthews continued resisting they guided Matthews back to the ground. Officer McCann told Matthews to stay there and Matthews replied, “Why? Why? Who are you?” Officer McCann transmitted on his radio for Officer Terrance Gordon to bring “max restraints.”¹

Initially, the security officers put Matthews down on his side, but because he was still moving, he was placed on his stomach. Officer McCann took control of Matthews’ legs and Frazier held his hands. Quitugua placed his hand on Matthews’ head in an attempt to stop his movements. Matthews continued to resist the efforts to control him. Officer McCann crossed Matthews’ feet and moved them toward Matthews’ buttocks. Within a few minutes, Officers Gordon and

¹ A maximum restraint is a strap device used as an added level of security when an individual is kicking.

Lorenzo Vidales arrived. Officer Gordon took the position of Frazier and placed his knee on Matthews' lower back. Officer Vidales had the maximum restraint straps. The straps were placed on Matthews' ankles to secure his feet. He was then rolled onto his side and the second strap was applied to Matthews' torso. According to Officer Vidales, while the second strap was being applied, Matthews grasped it with his hand and Officer Vidales had to pry Matthews' hand open to properly apply the restraint. Matthews also locked out his legs as the police officers attempted to pull his legs towards his torso. Eventually, the officers were able to apply the device, and Matthews was rolled onto his side.

Officer Gordon continued to ask Matthews if he was okay and checked his pulse. At this time, Matthews had a pulse and his breathing was labored and very heavy. Officer Gordon again asked Matthews if he was okay. Matthews did not respond. Multiple checks continued to determine whether Matthews had a pulse. Officer Anthony Gamble rubbed Matthews' sternum to elicit a response but Matthews did not respond. Officer Gamble attempted to get a pulse from the right side of Matthews' neck but did not feel one.

At approximately 3:59 a.m., Matthews was taken out of the maximum restraints and chest compressions were initiated. The Sacramento Fire Department arrived and immediately took over chest compressions and provided medical care. Matthews was subsequently transported to Sutter General Hospital. Upon arrival, Matthews was not breathing on his own, but had a faint pulse. He was taken to the Neurosurgery Intensive Care Unit and placed on life support. Matthews was pronounced deceased on July 4, 2019.

Surveillance video from the Golden One Center was reviewed. At approximately 3:30 a.m., Matthews enters the Golden One Center through the northwest doors. He can be seen walking down the stairs towards the basketball court until the stairwell ends into the seats. Matthews then steps on top of the seats and attempts to walk down towards the basketball court but falls a few rows down. Matthews immediately gets up to his feet and continues to maneuver through the seats and stairs until he reaches the basketball court, proceeds to the center of the court, and lies down in the middle of the Sacramento Kings logo. Security officers appear to be communicating with Matthews as he runs toward the visitors' tunnel.

Additional footage from surveillance cameras and Sacramento Police body-worn cameras was also reviewed. From that footage, Matthews is seen on the ground with Quitugua and Hayes holding him down. Matthews appears to be resisting by moving his body around. Officer McCann approaches and tells Matthews that the police are there, and that he wants to walk Matthews out of the building. Officer McCann also requests maximum restraints. Officer McCann and three security officers are holding Matthews down for several minutes until additional police officers arrive. As the restraints are placed on Matthews he appears more subdued. As he is laid on his side, Matthews is bleeding from his mouth. There is little to no movement from Matthews.

The Sacramento County District Attorney's Office Laboratory of Forensic Services examined a sample of Matthews' antemortem blood. The laboratory determined Matthews' blood contained methamphetamine, amphetamines and caffeine. The concentration of methamphetamine was determined to be 2,014 ng/mL, within a certainty of +/- 225 ng/mL.

Forensic Pathologist Katherine Raven, M.D., conducted an autopsy and concluded that the cause of Matthews' death was anoxic encephalopathy² due to acute methamphetamine intoxication in association with physical restraint and excited state.

LEGAL ANALYSIS

The Office of the District Attorney reviews deaths that occur while in police custody to assess and apply 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.

Officer McCann had probable cause to detain Matthews.³ Multiple witnesses saw Matthews enter the Golden One Center without permission when only employees were present and the building was closed to the public. Witnesses also observed Matthews running down the aisles and enter the basketball court. When security officers attempted to detain him, Matthews ran, struggled, and resisted. Officer McCann observed Matthews in the visitors' tunnel being detained by security and actively resisting. Officer McCann had sufficient reasonable articulable suspicion to detain Matthews to further investigate the situation, and Matthews was under a duty to submit to Officer McCann's authority. (California Penal Code § 834a.) When Officer McCann attempted to stand Matthews up to escort him out of the building, Matthews continued to resist by throwing his shoulders and hips about. Officer McCann told Matthews several times to stop, but Matthews continued to resist.

Because Officer McCann's efforts to take Matthews into custody were lawful, and there is no evidence to support a finding that Officer McCann, Officer Gordon, or Officer Vidales intentionally tried to harm Matthews, the only possible source of criminal liability is under California Penal Code section 192(b). 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.) 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

² Anoxic encephalopathy is also known as hypoxic-ischemic brain injury. It is a process that begins with the cessation of cerebral blood flow to brain tissue, which most commonly results from poisoning (for example, carbon monoxide or drug overdose), vascular injury or insult, or cardiac arrest.

³ *Terry v. Ohio* (1968) 392 U.S. 1; Penal Code § 835, 835a.

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. Further, criminal negligence requires a higher standard of proof than ordinary negligence (i.e., proof beyond a reasonable doubt). Our review includes no legal or factual analysis of whether there is any evidence of civil negligence in this case.

The determination of whether 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.)

When Officer McCann initially observed Matthews on the floor, Matthews was resisting detention by moving and struggling against the security officers’ efforts to maintain him on the ground. Even after McCann told Matthews that he was a police officer, that he wanted to speak with Matthews, and that he was going to walk Matthews out of the building, Matthews continued to resist. After attempting to have Matthews walk under escort, Officer McCann realized that Matthews’ continued resistive behavior would require a restraint device that would prevent Matthews from kicking. This was reasonable for Officer McCann’s and the security officers’ safety. Further, nothing about Matthews’ observed condition would lead to a conclusion that placing him in a restraint device would contribute to medical distress.

After Officer McCann observed Matthews calm when the restraints were secured on him, Officer McCann continued to monitor Matthews’ condition. Officer Gordon continued to check whether Matthews was breathing and had a pulse. Officer Gamble rubbed Matthews’ sternum to elicit a response from Matthews. Upon receiving no response, the officers again checked Matthews’ pulse and then began chest compressions.

It cannot be said that Officer McCann acted in an aggravated, culpable, gross, or reckless manner when he requested the restraints for Matthews, or that Officers McCann, Gordon, or Vidales acted improperly by placing Matthews in the restraints. They did not act with disregard for human life or an indifference to the consequences of their actions. Therefore, their conduct does not constitute a criminal act under any theory of liability.

CONCLUSION

Accordingly, there is no legal basis for any further action by our office regarding the actions of the peace officers involved in this matter.

cc: Sacramento Police Department Officer Mason McCann
Sacramento Police Department Officer Terrence Gordon
Sacramento Police Department Officer Lorenzo Vidales
Office of Public Safety Accountability
Kimberly Gin, Sacramento County Coroner’s Office