



Sacramento County District Attorney's Office

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DATE: March 16, 2021

TO: Captain Charles Meeks, Commander
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Captain Aaron Goulding, Commander
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FROM: Sacramento County District Attorney's Office

SUBJECT: In-Custody Death – Marshall Miles (DOB 11/17/1981)
Sheriff's Report No.: 18-385866
CHP Report No.: F102818104
Date of Incident: October 20, 2018
Date of Death: November 1, 2018

The above case was referred to this office for review of the circumstances surrounding the death of arrestee Marshall Miles.

At approximately 8:20 p.m. on October 28, 2018, a store clerk at the Power Market located at Watt Avenue and A Street in the North Highlands community phoned 9-1-1. She reported that an adult male, later identified as Marshall Miles, was in the store and attempting to grab money from her hand. She stated that he told her he had a gun, but she did not see one. Miles exited the store and began jumping on vehicles on Watt Avenue. Several citizens driving in the area called 9-1-1 to report Miles jumping on vehicles and demanding money. Miles caused extensive damage to two vehicles. Miles then ran to the gasoline pumps in front of the Power Market.

California Highway Patrol Officer Greg White was in uniform driving a marked vehicle when he responded to the 9-1-1 calls and observed Miles in the Power Market gasoline pump area. Miles ducked behind a vehicle parked at the gas pumps upon seeing Officer White. Officer White instructed Miles to show his hands. Miles sat down and laid on his back with his hands over his head. Miles was yelling, "They were trying to kill me," and "Don't kill me." Officer White observed that Miles was sweating profusely, his eyes were red, and his speech was rapid and mumbled. Officer White approached Miles and directed him to roll onto his stomach. Miles

complied, but when Officer White went to place Miles' wrists in handcuffs Miles began to struggle by pulling his arm away and twisting his body. Miles yelled aggressively and began kicking his legs, striking Officer White in the back as Officer White finished handcuffing Miles. Sacramento County Sheriff's Deputy Richard Nielsen arrived and assisted Officer White. Deputy Nielsen was in uniform and driving a marked patrol vehicle.

Sacramento County Sheriff's Deputies Renny Rojo and Paul Hoffman arrived in a marked patrol vehicle and in uniform. They observed Miles handcuffed with his hands behind his back laying on his stomach actively kicking while Officer White and Deputy Nielsen were attempting to search Miles. Miles continued screaming that someone was trying to kill him. After searching Miles for weapons and contraband with negative results, Officer White, Deputy Hoffman, and Deputy Nielsen escorted Miles to Deputy Hoffman and Deputy Rojo's patrol vehicle. While walking to the patrol vehicle, Miles planted his feet and refused to walk. Deputies Nielsen and Hoffman carried Miles to the patrol vehicle and secured him in the backseat. While in the patrol vehicle, Miles continued to yell that people were going to kill him. Miles was sweating profusely and continuously moving, causing the patrol vehicle to rock. During the approximate fourteen-minute drive to the jail, Miles continued to shift his weight and talk. He called out the names of roadways they travelled on, described nearby vehicles, and remarked that there was an additional patrol vehicle behind him.

Upon arriving at the Sacramento County Main Jail at approximately 9:05 p.m., Deputy Hoffman and Officer White removed Miles from the backseat of the patrol vehicle. Deputy Hoffman instructed Miles to walk to the arrest report room of the jail which was up three steps and approximately forty feet away. After walking up the stairs, Miles refused to walk any farther. Miles used his legs to push and pull away from Officer White and Deputy Hoffman, so they placed Miles on the ground on his stomach. Additional deputies and sergeants responded to assist. Sheriff's Deputies Kenneth Lloyd and John Higley applied shackles to Miles' ankles and Officer White applied a restraint device to Miles' legs. Officer White and deputies moved Miles from the jail garage into the jail arrest room where Miles was placed on the floor face down. The leg restraint device was removed, but his ankles remained shackled and he was still in handcuffs. He continued to shout, buck his hips, flail his arms, and tense his body. Deputy Blake Grinder and Deputy Higley were kneeling on each side of Miles to control his arms. Deputy Higley used his knee to pin Miles' left arm down and Deputy Grinder held Miles' right arm behind his back. Deputy Israel Hernandez stood on the chain between the shackles attached to Miles' ankles and was eventually relieved by Deputy Lloyd. Due to Miles' behavior, deputies decided not to take him to the medical intake station and instead a nurse responded to the arrest report room to evaluate him at approximately 9:08 p.m.

Given Miles' combative behavior, the nurse was unable to gather a medical history from him but was able to obtain his vital signs, and he was cleared for incarceration at approximately 9:11 p.m. According to the nurse's records of this incident, she noted that Miles was "rambling incoherently, fighting officers and stating repeatedly that he came from his mama's vagina." The nurse also noted that Miles appeared to be under the influence of an unknown substance and there was "no distress noted." She ordered a drug and alcohol detox evaluation and a mental

health referral.

Once cleared by medical staff, Miles was searched for contraband and his belt and jewelry were removed. Deputy Garside and Deputy Grinder assisted Miles to his feet so that a booking photo could be obtained. Deputy Garside instructed Miles to walk but he refused. As the deputies attempted to move forward, Miles began violently thrashing his body and kicking his legs. Given Miles' behavior, deputies took Miles to the ground and then carried him into a segregated cell. Miles continued to struggle while being carried by Deputies Grinder, Garside, Hernandez, and Higley. He yelled, "They are trying to shoot me, they are shooting me in the back of the head!" While he was being carried to the cell, Miles continued to kick his legs and at one point grabbed Deputy Grinder's radio from his belt and dropped it on the ground. Miles also grabbed Deputy Grinder's shirt sleeve and Deputy Grinder had to rip his arm away to get Miles to release his grip.

At approximately 9:23 p.m., Miles was placed inside the cell on his stomach and he continued to buck his hips and kick his legs. Deputy Lloyd placed his right leg at the top of Miles' pelvis and his left leg on top of Miles' hamstrings. Deputies Higley and Hernandez removed the leg shackles and Deputies Grinder and Garside removed his handcuffs. Deputy Grinder instructed Miles to bury his hands under his stomach and not to move until deputies had exited the cell. Miles did not respond. As Deputy Grinder was attempting to place Miles' arm under Miles' body, Deputy Garside heard a brief snoring sound coming from Miles. Deputies Garside and Grinder placed Miles' hands under his body and then immediately exited the cell at approximately 9:25 p.m.

At approximately 9:26 p.m., Deputy Lloyd entered the cell upon noticing that Miles was not moving. Deputy Lloyd was unable to locate a pulse and deputies requested an ambulance and began cardiopulmonary resuscitation. The Sacramento Fire Department and medics arrived at the jail and continued medical treatment. Miles was transported to Sutter General Hospital. After medical interventions, at approximately 10:08 p.m., the medical team noted Miles' pulse was strong and Miles was transferred to the intensive care unit and placed on a ventilator. On October 30, 2018, neurology specialists evaluated Miles and concluded there was no chance for recovery. On November 1, 2018, Miles was pronounced deceased.

Videos from the Power Market surveillance cameras were reviewed. These videos show Miles inside the store. Miles quickly moves to the narrow area behind the cashier and he paces behind her, at times coming within inches of her back. His movements are fast and he occasionally points towards the customers in front of the cashier. Miles begins to move quickly behind the cashier almost touching her back with his arms and body and the cashier moves out from behind the cash register to avoid Miles. He turns and runs exiting the store. The Power Market exterior surveillance cameras show Miles running across the gasoline pump area towards Watt Avenue.

Video from the Adalberto's Mexican Food restaurant was reviewed. The restaurant is located directly across A Street from the Power Market, to the south. Miles is seen jumping on cars and walking onto Watt Avenue into heavy traffic, causing multiple cars to slow, turn, and stop to avoid him.

Approximately seven minutes later, the exterior surveillance cameras of the Power Market show Miles back at the gasoline pump area and he falls to the ground. A CHP patrol vehicle with red and blue lights illuminated approaches him in the gasoline pump area. A single CHP officer approaches Miles while he is on the ground and Miles is seen kicking his legs while the officer is over Miles' back. Two patrol vehicles arrive on scene with their red and blue lights illuminated. The deputies in these vehicles join the officer and Miles.

California Highway Patrol in-car camera video was reviewed. At approximately 8:24 p.m., video depicts the patrol vehicle entering the Power Market gas pump area. On the audio that accompanies the video, Officer White says, "Just stop right there, man!" Miles can be heard yelling, "Get your handcuffs off me. I'm not resisting." Video does not show Officer White and Miles as they are outside the camera view.

Sacramento County Sheriff's Office in-car camera video was also reviewed. At approximately 8:25 p.m. the video shows Deputy Nielsen's patrol vehicle arrive and park next to the CHP patrol vehicle. Several seconds later Deputy Hoffman's patrol vehicle pulls in behind the CHP patrol vehicle. Shortly after that, a third in-car camera video shows Deputy Ulises Dominguez' patrol vehicle arrive. This view shows three Sheriff's deputies and one CHP officer holding Miles down on his stomach near a gas pump. Miles is handcuffed and yelling at officers. Deputies turn Miles from his stomach to his back, raise him to a standing position, and begin to escort him to the Sheriff's Office marked patrol vehicle. Miles appears to be walking with his feet in a wide stance and leaning side to side.

At approximately 8:27 p.m. Miles is placed in the back seat of the patrol vehicle. The in-car camera depicts Miles speaking quickly while continuously moving side to side and then forward and backward. His hands are handcuffed behind his back. He talks about his sister, someone named "Anthony," and his wife. He says he cannot breathe, the handcuffs shock him, and they are going to shoot him. He occasionally looks out the window as he speaks and appears to be yelling at people outside the vehicle. At approximately 8:45 p.m., a CHP officer opens the back door of the patrol vehicle and speaks to Miles. The officer's words are unintelligible. Miles states, "Don't reach for the gun, don't shoot me, sir. They're setting me up, they're putting dope in my hat. Mom, I can't breathe!" At approximately 8:48 p.m., the patrol vehicle begins to drive to the Sacramento County Main Jail.

Miles continues to speak quickly and continuously while being driven to the jail. He asks at least twice for the deputies' names and badge numbers. He observes other vehicles on the road, states that deputies have turned off the "dash cam," and yells about it taking so long for the deputies to take him to the jail. He also states that the handcuffs are too tight and are shocking him. Upon arriving at the jail and parking, Miles yells loudly that they are trying to kill him.

Sacramento County Main Jail video was reviewed. This video has no audio. It shows Miles exiting the patrol vehicle. After walking up the stairs and taking additional steps Miles drops to his knees. Officer White, Deputy Hoffman, Deputy Rojo, and Miles are seen moving on the floor, but within eighteen seconds four additional deputies join them. A wide pillar prevents the viewer from seeing Miles and the deputies on the floor. Approximately thirty-five seconds later,

Deputy Ashleigh Harris arrives on scene holding a handheld video recorder. A total of seven additional deputies are present. Approximately three minutes later, deputies and Officer White are carrying Miles towards the arrest room.

In the arrest room, video shows deputies carrying Miles and placing him on the floor face down. His hands are handcuffed behind his back. Two deputies have their knees on Miles' right and left shoulders while several deputies are removing Miles' shoes and the leg restraints. They leave on the ankle shackles and a deputy stands on the shackle chain between Miles' feet. Miles lays motionless for periods of time. Two nurses arrive with a blood pressure instrument on wheels and a nurse attaches a blood pressure cuff to Miles' bicep while the deputies continue to kneel on his shoulders. He is in the arrest report room for approximately fifteen minutes before deputies lift him to a standing position. Deputy Grinder is holding Miles' right upper arm and Deputy Garside is holding Miles' left upper arm as they walk to exit the room. Miles bends forward at the waist as they pass through a doorway.

Video from the "male pat down" area shows Miles passing through a doorway bent forward at the waist with Deputies Garside and Grinder at his left and right and Miles lurches forward landing on the floor on his left side. Deputies Garside and Grinder are leaning over him and Deputies Higley and Hernandez grab Miles' left and right calves. All four deputies lift Miles from the floor and Miles twists his buttocks to the left as the deputies begin moving down a hallway.

Video from the "male ID station" area shows Deputies Garside, Grinder, Hernandez, and Higley carrying Miles down a hallway for approximately thirteen seconds. At approximately six seconds Miles appears to move his hips causing Deputy Higley to struggle with his hold on Miles' leg.

A camera is mounted on the ceiling in "Male Segregation Cell 3." Video from that camera shows Deputies Garside, Grinder, Hernandez, and Higley carrying Miles into the cell. They lay him on his stomach with his feet facing the cell door. Deputy Grinder is at Miles' right shoulder and Deputy Grinder's head and body block Miles' upper body and head from the video view. Only Miles' long braids are visible. Deputy Lloyd enters the cell and places his right knee on Miles' lower back and places his left knee on Miles' right hamstring as Deputies Hernandez and Higley release the shackles on Miles' ankles. Miles' body cannot be seen because Deputy Lloyd's body blocks the view. After Miles' shackles are removed, Deputies Grinder and Garside remove Miles' handcuffs. All the deputies quickly exit the cell. Two minutes and thirty-seven seconds elapse between deputies placing Miles in the cell and deputies exiting the cell. Miles lies motionless and a deputy re-enters the cell approximately one minute and twenty-one seconds later. This deputy takes Miles' pulse, rolls him over, takes his pulse again, and then administers chest compressions.

The Sacramento County Sheriff's Office also video recorded Miles with a handheld video recorder from Miles' location near the garage stairs until the cell door is closed in Male Segregation Cell 3. This video is approximately twenty-three minutes. Deputies resume video recording when deputies entered Miles' cell upon finding him non-responsive and continue

recording until Sacramento Fire Department medics placed him in their ambulance. This video is approximately twenty-two minutes. These recordings include audio.

From the beginning of the recording, Miles is yelling. He yells while deputies and Officer White are placing shackles and leg restraints on his ankles. He is repeatedly told to stop talking but Miles continues yelling. He yells, "They broke my left foot!" and other statements that are unintelligible. He kicks his feet and moves underneath the deputies attempting to restrain his legs. Deputies instruct him to stop, but he continues to yell. He yells, "I'm dead!" A deputy responds, "No, you aren't" and Miles responds, "Yes I am!" After deputies place Miles in leg restraints, they lift him and carry him into the arrest room. Miles yells, "No! No! No! Please, sir. I can't breathe."

Once inside the arrest room, deputies place Miles on the floor face down. Miles yells, "I didn't do nothing! I didn't do nothing!" Deputies begin to remove his legs restraints. Miles continues to yell, "Officer!" "I can't breathe." "Let me go!" "I don't deserve this!" "Sir. Sir." Once the leg restraints are removed, the nurse approaches Miles. He continues to speak but is no longer yelling. His words are difficult to discern. Deputies are still holding him on the floor by his left and right arms, and a deputy is standing on the chain between Miles' ankles. The nurse applies the blood pressure cuff. A deputy asks Miles if he has seizures and Miles answers, "No." A deputy asks other medical questions and Miles continues to speak but his words are unintelligible. While the deputies are still controlling his arms and ankles Miles continues to speak, saying "My nose is bleeding" and "Injecting me." The nurse states that Miles' blood pressure reading is 140 over 80 and Miles repeats the numbers.

A deputy instructs Miles to stand up and walk. Deputies on Miles' left and right then lift Miles to a standing position. Miles says, "Come on man, don't do that to me!" A deputy instructs Miles, "Just walk." Miles bends at the knees while keeping his upper body upright twice. As deputies move forward, Miles bends forward at the waist moving his upper body parallel to the floor. Miles has yellow mucus running out of his nose. Deputies and Miles move forward approximately three steps before Miles bends at the waist and moves his upper body forward, once again parallel with the floor, and he moves forward and falls onto the floor face down. He yells, "Ah, cuz!" Miles yells and kicks. Two deputies are by Miles' shoulders and two deputies grab him by his calves. The deputies lift Miles and begin walking forward. A deputy instructs Miles, "Don't kick!" and "Quit kicking!" Miles yells that deputies are pulling his legs and continues to kick his legs and he yells, "Ah, he broke my leg!" Miles is silent as deputies are carrying him into Male Segregation Cell 3.

Deputies place Miles on the floor of Male Segregation Cell 3 face down. A deputy says, "We got to get these off." Miles then says, "Gotta get these off, cuz" and additional unintelligible words. Miles continues to say, "Ah, ah" as deputies remove his shackles. Deputy Garside is at Miles' left shoulder and Deputy Grinder is at Miles' right shoulder. The view of Miles' head and body is blocked by Deputy Lloyd at Miles' torso and Deputies Grinder and Garside holding Miles' upper arms. Deputy Grinder tells Miles that he is taking off the handcuffs and instructs Miles to bury his hands under his stomach. He asks Miles, "Do you understand me?" to which Miles does not respond. Deputy Grinder and Garside start to remove the handcuffs and Deputy

Grinder calls Miles' name three times. There is no response. Deputy Garside removes the left handcuff and places Miles' left hand under Miles' stomach. Deputy Grinder repeats for Miles to bury his right hand under his stomach and not to move until the door closes. Deputy Grinder asks if Miles understands him. There is no response. Deputy Grinder instructs Miles, "Bury it now." Deputy Grinder places Miles' right hand under Miles' body and then Deputy Grinder, Deputy Garside and Deputy Lloyd quickly exit the cell. Miles remains on the floor in the cell as deputies close the door.

When the second video from the hand-held camera begins, three deputies are in the cell with Miles and a deputy is checking Miles. He has Miles' upper body turned on its right side and Miles' face is not visible. There is a smear of blood on the floor near where Miles' head was on the floor. The deputy rubs the front of Miles' upper torso and then requests code three ambulance. He checks Miles' wrist and neck for a pulse while another deputy is on the radio. Deputies begin chest compressions, a nurse arrives, and deputies continue to render aid until Sacramento Fire Department and medics arrive and tend to Miles.

Forensic Pathologist Jason Tovar, M.D., conducted an autopsy and concluded the cause of Miles' death was complications of cardiopulmonary arrest during restraint and mixed drug intoxication.

On October 28, 2018, NMS Labs examined samples of Miles' blood collected during the autopsy. Their toxicology examination concluded Miles' blood samples were positive for methamphetamine 540 ng/mL, amphetamine 48 ng/mL, benzoylecgonine (cocaine degradation product) 250 ng/mL, delta-9THC (active ingredient in marijuana) .91 ng/mL, and cotinine (a metabolite of nicotine). Their report indicated "Blood levels of 200 – 600 ng/mL have been reported in methamphetamine abusers who exhibited violent and irrational behavior. High doses of methamphetamine can also elicit restlessness, confusion, hallucinations, circulatory collapse and convulsions."

Dr. Tovar noted the presence of fractures to five ribs. Although some are consistent with the type of fractures that can occur during resuscitative efforts, it is unknown whether each fracture was sustained during CPR or during the various struggles that occurred in the course of the incident. There were no fractures to either leg or either foot.

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 White's and the Sheriff's deputies' efforts to detain and take Miles into custody were

lawful. Under the circumstances, Officer White had probable cause to take Miles into custody. Witnesses reported that Miles had jumped on vehicles causing damage consistent with felony vandalism.¹ Officer White had sufficient reasonable articulable suspicion to detain Miles to investigate the situation further.² When Miles struggled and kicked while Officer White attempted to place him in handcuffs, Officer White had probable cause to arrest Miles for the felony offense of resisting or preventing an executive officer from performing his or her duties by force or violence.³ After exiting the patrol vehicle at the Sacramento County Jail, Miles refused to walk and struggled with law enforcement. To effectuate the arrest and book Miles into jail custody, deputies restrained Miles and carried him into the jail. Deputies continued to restrain Miles in handcuffs and ankle shackles while within the jail because Miles continued to kick, tense his body, yell, and not respond to instructions to walk. 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.4th 321.) Although Miles remarked that officers tried to shoot him, broke his leg and foot, shocked him with handcuffs, and otherwise tried to harm him, objective evidence from the videos independently established that neither Officer White nor any of the deputies intentionally or willfully tried to harm Miles. Thus, 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 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

¹ Penal Code § 594.

² *Terry v. Ohio* (1968) 392 U.S. 1; Penal Code § 835, 835a.

³ Penal Code § 69.

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.)

During the initial encounter, Miles was placed in handcuffs because he was being taken into custody. The use of handcuffs was reasonable. After arriving at the jail, leg restraints and ankle shackles were utilized because he was kicking and physically resisting, including using his body to flail, struggle, or otherwise impede peace officers' efforts to detain and arrest him. He had to be carried several times because he actively refused to walk. The use of handcuffs, leg restraints, and ankle shackles and the actions of physically moving him were reasonable given the circumstances.

Miles was examined by a nurse and found acceptable for admission to the jail. He appeared to hear deputies and the nurse and appeared to react to deputies lifting and carrying him. He was speaking and moving when he was placed on his stomach inside Male Segregation Cell 3. The fact that he was motionless was not inconsistent with the time in the arrest room when he was motionless. As the deputies were focused on the task of removing Miles' ankle shackles and handcuffs, and given Miles' failure to follow instructions in the jail garage and arrest room, it was not unreasonable for deputies to exit the cell despite Miles' failure to verbally and physically respond to Deputy Grinder's commands to place his hands under his stomach. Immediately upon realizing Miles was unresponsive less than two minutes after exiting the cell, deputies performed cardiopulmonary resuscitation until medical personnel arrived. As noted by the coroner, Miles died as a result of complications from cardiopulmonary arrest and mixed drug intoxication.

None of the law enforcement officers involved in the arrest and booking process struck or assaulted Miles in any way. The force used to effectuate his arrest and incarceration was reasonable given the violent behavior Miles exhibited beginning with his actions in the market and continuing through his placement into the segregation cell. The law enforcement officers did not act in an aggravated, culpable, gross, or reckless manner, nor did they act with a disregard for human life or an indifference to the consequences of their actions. Instead, they demonstrated a proper regard for human life.

CONCLUSION:

Applying the controlling legal standards to the factual record in this case, there is no credible evidence to support an allegation of criminal negligence or excessive force against any of the officers or deputies involved with the arrest. Miles' death was not the result of inattention, mistaken judgment, or misadventure. To the contrary, the objective evidence supports a finding that the conduct by law enforcement was reasonable given the circumstances they encountered. Accordingly, there is no legal basis for any further action by our office.

cc: Mark Evenson, Office of the Inspector General
Lieutenant Gail Vasquez, Sacramento County Sheriff's Office
Kimberly Gin, Sacramento County Coroner's Office