



Sacramento County District Attorney's Office

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DATE: October 24, 2022

TO: Chief Bobby Davis
Elk Grove Police Department
8400 Laguna Palms Way
Elk Grove, CA 95758

FROM: Sacramento County District Attorney's Office

SUBJECT: In-Custody Death: David Anthony Bocci (DOB 3/18/1987)
EGPD Report No.: 21-006391
Date of Incident: September 23, 2021

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 in connection with the death of David Anthony Bocci. For the reasons set forth, we find no evidence of criminal misconduct.

The District Attorney's Office received and reviewed written reports and other items, including: Elk Grove Police Department report number 2021-006391 and related dispatch logs and recordings; witness interviews; diagrams; photographs; body-worn camera and other video recordings; Sacramento County Laboratory of Forensic Services reports; NMS Labs reports; and the Sacramento County Coroner's Final Report of Investigation.

FACTUAL SUMMARY

On September 23, 2021, firefighters with the Cosumnes Community Services District (CSD) Fire Department were driving near the intersection of Laguna Park Drive and Seasons Drive in the City of Elk Grove shortly before 1:00 p.m. The firefighters noticed a 1988 Toyota Corolla stopped at the intersection. The car was not moving.

The firefighters parked their vehicle and approached the Corolla. They believed the Corolla may have broken down. When they arrived at the driver's side door, they saw a subject later identified as David Anthony Bocci sitting in the driver's seat. Bocci was completely covered in sweat. He appeared agitated and was acting erratically.

Bocci exited his car. He was yelling, swinging his arms, and talking nonsensically. The firefighters were able to take the car keys from him so Bocci could not drive away.

The firefighters contacted Elk Grove Police Department (EGPD) dispatch at approximately 12:58 p.m. to request Code 3 police response.¹ The call stated the firefighters needed help dealing with an unruly subject. No further details were given.

At that time, Elk Grove Police Officer Nathan Meyerdick was working traffic enforcement on his motorcycle near Laguna Boulevard and Old Creek Road. Officer Meyerdick was wearing his black EGPD uniform with visible badge and patches and a white motorcycle helmet with a visible department emblem on the front. Officer Meyerdick was equipped with a body-worn camera.

Officer Meyerdick heard the radio broadcast that CSD Fire Department was requesting Code 3 police response to assist with an unruly subject. He activated his lights, siren, and body-worn camera. He arrived at Laguna Park Drive and Seasons Drive at approximately 1:00 p.m.

Officer Meyerdick saw Bocci's gold Toyota at the intersection with its hazard lights activated. He observed three firefighters surrounding Bocci, who was sweating excessively and rambling incoherently. Officer Meyerdick thought Bocci might be under the influence of a controlled substance or experiencing a mental health issue. After Officer Meyerdick dismounted his motorcycle, the Fire Department Captain briefed him on the circumstances.

Officer Meyerdick then approached Bocci and asked his name. Bocci did not answer or acknowledge Officer Meyerdick's presence. Officer Meyerdick thought Bocci was responding to hallucinations.

Bocci walked away from Officer Meyerdick and towards his Corolla. He began to reach through the open driver's side window. Officer Meyerdick told Bocci not to reach inside the car. However, Bocci reached in, grabbed a book from the front seat area, and clutched the book to his chest.

Officer Meyerdick was concerned Bocci could be armed. He had not yet patted Bocci down to check for a weapon. The Fire Department Captain also told him they had not searched Bocci.

Officer Meyerdick tried to convince Bocci to move out of the roadway onto the sidewalk. Bocci would not follow Officer Meyerdick's directions. Instead, Bocci talked nonsensically and again walked away from Officer Meyerdick.

Because Bocci had not yet been searched and was behaving erratically, Officer Meyerdick grabbed Bocci's left hand and applied a twist-lock control. Officer Meyerdick believed Bocci could have a weapon concealed in his baggy shorts, and Officer Meyerdick was concerned for the safety of people in the surrounding park or nearby school.

As Officer Meyerdick placed Bocci's left hand in the control hold, Officer Shawn Vargas arrived on scene along with Sacramento County Senior Mental Health Technician Janae Schallert.

¹ Code 3 means to consider the call an emergency and respond immediately, including utilizing emergency lights and sirens as necessary.

Officer Vargas and Schallert ride together in a squad car as part of the Crisis Intervention Team to provide support to subjects with mental health issues. Officer Vargas was wearing a full EGPD uniform with a visible badge and department patches on his sleeves. He was equipped with a body-worn camera.

Officer Vargas saw Officer Meyerdick applying a control hold to Bocci's left hand. He saw that Bocci was actively resisting Officer Meyerdick, not following directions, and sweating profusely. He believed that Bocci was under the influence of a narcotic.

Officer Vargas approached to assist. He took possession of Bocci's book and placed it on the hood of the car. Officer Meyerdick told Officer Vargas that Bocci had not yet been searched. Officer Vargas decided the safest action was to detain Bocci temporarily in handcuffs due to Bocci's unruly behavior and lack of cooperation with the firefighters and Officer Meyerdick.

Bocci resisted being handcuffed. Bocci repeatedly jumped up and down as Officer Vargas struggled to apply the handcuffs to Bocci's wrists.

At approximately 1:02 p.m., Officers Meyerdick and Vargas maneuvered Bocci over to Officer Vargas' patrol vehicle in an effort to apply the handcuffs and gain control of Bocci. As Officer Vargas was attempting to apply the handcuffs, Bocci continued to struggle. Both officers told Bocci to stop resisting. They told Bocci he was not under arrest; he was only being detained.

However, Bocci kicked his leg up backwards and struck Officer Vargas between his legs, near his groin.

Officer Vargas knew Bocci had not been patted for weapons. He knew that if Bocci was able to kick him in the groin and incapacitate him, Officer Meyerdick would potentially be in danger. He told Bocci to stop kicking and he would not like what would happen if he did not stop.

Bocci continued to resist. Officer Vargas then struck Bocci one time with his right forearm on Bocci's upper back and used his body weight to take Bocci to the ground. Although Bocci continued to struggle, officers were able to apply the handcuffs within approximately ten seconds.

The officers searched Bocci and determined he did not have any weapons. Officer Meyerdick then rolled Bocci onto his left side so Bocci would be able to breathe more easily.

Bocci continued to struggle. Officer Meyerdick used his hand and left leg to control Bocci. However, Officer Meyerdick did not place his body weight or any substantial force on Bocci.

Officer Vargas asked dispatch to send a unit with a WRAP restraint device and a supervisor.²

Bocci remained on his left side, propped up on his left elbow. At approximately 1:05 p.m., Officer Meyerdick heard Bocci say something he interpreted as, "Forgive me, God. Please fix

² The WRAP restraint is a restraint system utilized to safely immobilize a subject. It consists of a locking shoulder harness and leg restraint. It is designed to put no pressure on the subject's chest so as not to interfere with breathing.

me, God.” Bocci then appeared to strike his own head forcefully down onto the concrete curb. Bocci’s head landed on the curb with an audible “thud.”

Officer Meyerdick thought Bocci’s act was intentional. There was no visible injury, but Officer Meyerdick was concerned about Bocci’s condition.³

Additional officers arrived on scene and began to place the WRAP restraint on Bocci. Bocci was placed temporarily on his stomach. At approximately 1:08 p.m., as Officer Meyerdick was assisting in placing the device on Bocci’s legs, Bocci kicked up forcefully backwards with his right leg. Bocci’s right heel struck Officer Meyerdick on the forehead area of his motorcycle helmet. The force of the kick made Officer Meyerdick’s teeth slam together, but Officer Meyerdick was uninjured.

Officers then held Bocci’s legs to prevent him from kicking. They were able to complete the application of the WRAP restraint.

Fire Department personnel examined Bocci and noted nothing unusual.

Bocci was transported by ambulance to Methodist Hospital of Sacramento. Officer Jazvi Singh rode in the ambulance with Bocci. Medic Andrey Availa noted that during Bocci’s transport to the hospital, Bocci’s vital signs were stable. Bocci did not require any chemical sedation. Medic Availa did note that Bocci had an apparently fresh abrasion to his head.

The ambulance arrived at Methodist Hospital at approximately 1:37 p.m. Bocci remained in the restraint device at the hospital. Nurse Christy Reiner noted Bocci was screaming incoherently, combative, and thrashing about. At approximately 1:45 p.m., Bocci suffered a seizure. Hospital staff administered Ativan to Bocci in an attempt to calm him down. It was ineffective.

The hospital then administered an intermuscular medicine to try to calm Bocci, also without success. Bocci’s body again began to seize. The seizure continued until Bocci stopped breathing. The hospital attempted lifesaving measures, including cardiopulmonary resuscitation. They were unable to revive Bocci. Dr. Jan Elsbach pronounced Bocci deceased at approximately 3:02 p.m.

Multiple civilian witnesses were interviewed, including the firefighters and mental health counselor present at the scene, as well as two employees of a local school who observed the incident from their car. Each of these witnesses described the events consistently with how they are detailed above.

EGPD Detective Jorge Benitez searched Bocci’s Corolla on October 6, 2021. Bocci’s personal

³ Bocci’s statement and Bocci falling to his side towards the curb is visible on Officer Vargas’ body-worn camera and is audible on Officer Meyerdick’s camera. Bocci’s statement seems to be, “Dad, I forgive you.” Bocci then falls sharply to his left side. Bocci striking his head is not directly visible on either camera, but can indirectly be seen on Officer Meyerdick’s body-worn camera as a reflection in the bumper of Officer Vargas’ patrol vehicle. Although it is not clear if Bocci acted intentionally, it is, however, clear from the video that no act done by any officer present on scene caused Bocci’s head to fall and strike the curb.

items were found in the trunk. Detective Benitez located an empty prescription bottle for Lorazepam (a generic for Ativan) and an empty prescription bottle for Aripiprazole (a generic for Abilify).

A review of EGPD records shows that four separate 9-1-1 calls were made to EGPD concerning Bocci shortly before this incident. On May 31, 2021, Bocci's mother called 9-1-1 and reported her son needed to be evaluated for "5150."⁴ When EGPD officers contacted Bocci, Bocci was sweating profusely and appeared to be hallucinating. Bocci was placed on a hold pursuant to Welfare & Institutions Code section 5150.

On September 22, 2021, Bocci's mother called 9-1-1 regarding her son's behavior. She indicated Bocci was diagnosed with bi-polar disorder and schizophrenia and was not taking his medications. Officers met with Bocci and determined he did not meet the criteria for a 5150 hold. Bocci agreed to voluntarily check himself into the Sierra Vista Psychiatric Facility, which he did not eventually do.

On September 23, 2021, at approximately 5:22 a.m., Bocci called 9-1-1 to report that his mother was kicking him out of the house. Officers responded and advised Bocci to return to the house later to pick up his belongings.

On September 23, 2021, at approximately 12:38 p.m., a citizen called EGPD to report a white male adult in an orange shirt running in the intersection of Sheldon Road and Bruceville Road, swinging at passing vehicles. Officer Vargas responded to this call at approximately 12:59 p.m. and found the subject of the call had left the scene. However, a later review of a traffic camera at this intersection showed that Bocci had stopped his Corolla briefly in the center of this intersection and wandered through traffic before getting back into his car and driving away.

An autopsy was performed by Dr. Jason Tovar, a certified pathologist with the Sacramento County Coroner's Office. During the autopsy, Dr. Tovar located two undigested white pills in Bocci's stomach, and 22 undigested white pills in Bocci's small intestine. Dr. Tovar also collected a sample of Bocci's femoral blood for toxicology testing.

The blood sample was tested by the Sacramento County District Attorney Laboratory of Forensic Services, then sent for further testing to NMS Labs. The testing showed that the blood sample contained methamphetamine, amphetamine, marijuana, Bupropion (an anti-depressant sold commercially as "Wellbutrin"), Hydroxybupropion (the major active metabolite of Bupropion), Lidocaine (an anesthetic), Lorazepam (a sedative sold commercially as "Ativan"), Levetiracetam (an anti-convulsant used to treat seizures), and Aripiprazole (an anti-psychotic used to treat schizophrenia, bi-polar disorder, or depression, and sold commercially as "Abilify").

Quantitative testing of this sample was performed by NMS Labs. Most significant of the quantitative results are the levels of methamphetamine and Bupropion. The NMS Lab testing showed methamphetamine present in the blood sample at a level of 500 ng/mL. The lab report indicates that methamphetamine levels of 200-600 ng/mL have been reported in

⁴ Welfare and Institutions Code section 5150 provides for an involuntary temporary detention for up to 72 hours for an individual experiencing a mental health issue that makes them a danger to themselves or others.

methamphetamine abusers who exhibited violent and irrational behavior. The lab report further states that high levels of methamphetamine can also elicit restlessness, confusion, hallucinations, circulatory collapse, and convulsions.

The NMS Labs testing showed a level of 4,200 ng/mL of Bupropion in the blood sample. The lab report explained that adverse effects of Bupropion overdose may include nausea, vomiting, agitation, dizziness, seizures, sleep disturbances, tachycardia,⁵ lethargy, confusion, tremors, and death. In prior known fatalities from overdose of Bupropion, postmortem blood concentrations have been reported to range from 4,000-13,000 ng/mL.

After conducting the physical autopsy and reviewing the toxicology results and body-worn camera video of the incident, Dr. Tovar determined Bocci's cause of death to be "mixed drug intoxication during physical restraint." The manner of death is listed as "Undetermined."

Dr. Tovar believed three factors potentially played a role in Bocci's death: mixed drug intoxication; a prolonged episode of agitation, erratic behavior, and physical exertion; and physical altercation with law enforcement, including physical restraint. However, Dr. Tovar concluded the exact role played by each of these three factors could not be determined.

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.

Here, Officers Meyerdick and Vargas responded to the scene at the request of the CSD Fire Department. The firefighters had come upon what they believed was a disabled vehicle. The firefighters found Bocci sitting in the driver's seat of the Corolla, sweating profusely, and acting erratically. They did not know if Bocci was under the influence of drugs or experiencing a mental health issue. They asked for urgent police response to be able to assess and assist Bocci.

Officers Meyerdick and Vargas restrained and placed handcuffs onto Bocci. Due to Bocci's condition and behavior, they also placed the WRAP restraint device on Bocci with the assistance of other EGPD officers. Bocci appeared to be in significant distress and need of care. The firefighters could not provide that care while Bocci actively struggled against them.

Ordinarily, the restraint and handcuffing of an individual would constitute a detention or arrest that would need to be predicated on the existence of reasonable or probable cause to believe a crime had been committed. (See California Penal Code sections 834 and 835a; *Terry v. Ohio* (1968) 392 U.S. 1, 27.)

However, the Fourth Amendment is not implicated when officers act for a lawful purpose other than suspicion of involvement in criminal activity. Such circumstances exist when an officer is engaged in one of "those innumerable miscellaneous tasks which society calls upon police to do

⁵ Tachycardia indicates a heartbeat of over 100 beats per minute.

which have nothing to do with the detection of crime,” such as giving aid to persons in distress, assisting the elderly or disabled, or protecting persons from harm. (See *In Re Tony C.* (1978) 21 Cal.3d 888, 895-896.) Considering Bocci’s condition and the request for assistance by the firefighters, the decision by Officers Meyerdick and Vargas to restrain and handcuff Bocci to allow the firefighters to provide medical care is inarguably lawful.

Furthermore, as there is no credible evidence to support a finding that Officer Meyerdick, Officer Vargas, or any other officer or firefighter present at the scene intentionally tried to harm Bocci, 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.)

Here, Officers Meyerdick and Vargas and the other EGPD officers present acted reasonably when they restrained Bocci at the request of firefighters.

When Officer Meyerdick arrived at the scene, he consulted with the firefighters. He approached Bocci and was able to observe his condition. Bocci did not respond to Officer Meyerdick or acknowledge his presence. Bocci was sweating excessively and repeatedly walked away from the officer. Officer Meyerdick attempted to calm Bocci by speaking to him, without success. Bocci ignored Officer Meyerdick and reached into the passenger compartment of his car, despite Officer Meyerdick directing him not to do so.

Officer Meyerdick placed Bocci into a twist-lock control hold. Officer Vargas arrived to assist. He placed Bocci's right wrist into a control hold. As Bocci had not yet been patted down for weapons, the officers decided the safest course of action was to temporarily place Bocci in handcuffs so he could be assessed by the firefighters.

As they struggled to place the handcuffs on Bocci, Bocci actively resisted. Bocci repeatedly jumped up and down to try to avoid being handcuffed. When the officers moved him towards the patrol car to try to gain control of Bocci, Bocci actively kicked backwards at Officer Vargas, striking him between the legs near his groin. Due to the struggle from Bocci and the fact that it was unknown if Bocci had a weapon, Officer Vargas determined he needed to take Bocci to the ground to complete the handcuffing process. He struck Bocci one time on the upper back with his right forearm. Officer Vargas then used his body weight to take Bocci to the ground. Officers were then able to securely apply the handcuffs within approximately ten seconds.

As shown in the body-worn camera video, the officers used minimal force and measured voices and tried to calm Bocci throughout the process. Once Bocci was handcuffed, the officers moved Bocci onto his side to allow him to breathe more freely. Although Officer Meyerdick placed his knee and hand against Bocci to hold Bocci still, Officer Meyerdick did not place his body weight on Bocci in a manner that would obstruct his breathing.

Similarly, officers did not use any unreasonable force on Bocci while applying the WRAP restraint. They used calm voices and only appeared to use the force necessary to apply the device.

Once the device was applied, Bocci was immediately checked by the firefighters present on scene, then promptly transported by ambulance to the hospital. It should be noted that neither the firefighters nor the transporting medics believed Bocci was in any form of distress or discomfort requiring medical intervention. Medic Andrey Availa noted that during transport to the hospital, Bocci's vital signs were stable and Bocci did not require chemical sedation.

Furthermore, Officers Meyerdick and Vargas had no indication that Bocci had such high levels of controlled substances in his system. However, even if they had known, they could not have done something differently. Medical staff could not provide any assistance to Bocci until such time as it was safe for them to do so. When Bocci was acting erratically, talking nonsensically, hallucinating, and walking away from officers and firefighters, treatment could not safely be provided. Law enforcement would have to control Bocci to an extent that medical personnel could safely care for him.

Additionally, medical personnel immediately were able to begin to care for Bocci once the WRAP restraint was applied. The transporting medics and the hospital medical staff chose to keep Bocci in the restraints while caring for him. Accordingly, it cannot be argued that EGPD personnel acted in an aggravated or reckless manner or with a disregard for human life in applying a restraint that medical staff at Methodist Hospital chose to leave in place.

Similarly, it cannot be argued that the officers present were in any way negligent for failure to provide care or monitor Bocci more closely. The officers responded to the scene within two

minutes at the request of the firefighters and turned Bocci over to medical personnel immediately after applying the WRAP restraint. Clearly, it was reasonable for the officers to defer to the medics for all decisions regarding Bocci's medical care or treatment.

The autopsy conducted by Dr. Tovar reinforces this conclusion. Dr. Tovar also reviewed the toxicology results and the body-worn camera video before determining a cause of death. After doing so, Dr. Tovar classified the manner of death as "undetermined." Considering the high levels of drugs in Bocci's system and Bocci's extended period of agitated, erratic behavior, Dr. Tovar could not determine to what extent, if any, the restraint by law enforcement contributed to Bocci's death.

Therefore, considering the totality of circumstances, 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. A reasonable jury would not find any of these officers criminally culpable for Bocci's death.

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 Officers Meyerdick, Vargas, or other involved officers of the Elk Grove Police Department. Rather, the objective evidence supports a finding that the officers' conduct was reasonable given the circumstances they encountered.

Accordingly, we will take no further action in this matter.

Cc: Elk Grove Police Department Detective Cameron Mason #235
Elk Grove Police Department Officer Nathan Meyerdick #10675
Elk Grove Police Department Officer Shawn Vargas #10662
Kimberly Gin, Sacramento County Coroner's Office