



Sacramento County District Attorney's Office

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Chief of Police Bryan Noblett
Elk Grove Police Department
8400 Laguna Palms Way
Elk Grove, CA 95758

Re: In-Custody Death – Daniel Landeros (DOB 4/9/75)
EGPD Report No. 16-007679 & 16-007680
Date of Incident: November 30, 2016

Dear Chief Noblett:

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

On November 30, 2016, at approximately 9:53 p.m., a witness observed a white Chevy Colorado truck speeding northbound on Bruceville Road, proceeding through the red light at Laguna Boulevard, and turning westbound. The truck continued on Laguna Boulevard and swerved from one side of the road to the other side, while also driving up onto the center median.

Several minutes later, Elk Grove Police officers were conducting a traffic stop on westbound Elk Grove Boulevard just west of Ginther Drive. They suddenly observed the white truck driving eastbound in the wrong direction towards westbound traffic. The truck was in the number one lane and appeared to be driving faster than the traffic in the eastbound lane of Elk Grove Boulevard. The driver was later identified as Daniel Landeros.

Landeros' truck crashed head on into a brown Toyota Tacoma near Elk Grove Boulevard and Wymark Drive, and struck the front driver's side of the Tacoma in the middle lane. This collision caused the Tacoma to go into the right lane and spin. Landeros' truck continued and struck the front left portion of a white Lexus RX350, driving behind the Tacoma, and then struck a blue Hyundai Santa Fe in the westbound number one lane.¹ The driver of the Tacoma was trapped in his vehicle and suffered a laceration to the top of his head and left elbow, as well as bruising to various areas of his body. The driver of the Santa Fe suffered pain to her back, neck, and lower abdomen. The driver and passenger of the RX350 were not injured.

¹ Witness accounts differed as to how the blue Hyundai Santa Fe was struck. Based on evidence at the scene, it appears that, as one witness described, Landeros' white truck struck the Toyota Tacoma, then struck the RX350, and swung around to hit the Santa Fe.

As Officers Steven Holstad and Samuel Schafer were on Elk Grove Boulevard and approached the collisions, they saw the driver's door of Landeros' truck was open and the front windshield damaged. Landeros was bleeding from his head and was quickly walking away from the collision while looking back over his shoulder at the damaged cars. Officer Holstad stopped the vehicle, exited the driver's door, and yelled at Landeros to "get over here" and "stop." Landeros was approximately 20-45 feet from the front of the patrol vehicle. He had a laceration on the left side of his forehead and his eyes were wide open. Officer Schafer believed Landeros was impaired by alcohol or drugs. After Officer Holstad asked Landeros if he was involved in the collision, Landeros yelled, "You're not real" and ran south across the eastbound traffic lanes. Officers Holstad and Schafer were in police uniform. They pursued Landeros, who was tense and stated, "You're fake!" and "Get the fuck away from me!"

Landeros ran west along the south side of Elk Grove Boulevard with his hands near his waistband. He continued to look back at the officers. The officers yelled at him to stop and sit down on the ground. Landeros finally stopped, turned towards the officers, looked at them, clenched his fists, and took a fighting stance for approximately 5-10 seconds. He was approximately 10-20 feet from the officers. Landeros continued to curse at the officers and refused to comply with their directives. He turned and fled west. Officer Schafer deployed his Taser at Landeros, who was wearing a jacket, but it was ineffective. Landeros continued running west with his hands near his waistband, stopped, and turned back towards the officer. Based on the poor street lighting and traffic on Elk Grove Boulevard, Officer Schafer was concerned about Landeros' safety. Officer Schafer saw that Landeros' jacket was open, so he aimed at Landeros' chest and deployed the Taser a second time. It was effective and Landeros fell on his back. The officers approached, rolled him over on his stomach, and placed Landeros in handcuffs. Officer Holstad placed his left knee on Landeros' back and his right knee on his rear end, while Officer Schafer was similarly positioned on the other side.

Landeros was kicking, fighting, and saying, "Fuck you guys," "You're not real," and "Get the fuck off of me!" Landeros was rolling side to side and flailing his legs. Other officers arrived and helped hold Landeros down on the ground by placing their body weight on him to control his movements. Landeros was face down, yelling at officers, kicking his feet, and rolling from side to side. Officers instructed Landeros to stop resisting or the Taser would be deployed again. They eventually controlled his ankles. Other officers relieved Officers Holstad and Schafer and took control of detaining Landeros. None of the officers struck Landeros at any time.

Officers observed Landeros' nose bleeding. They rolled him onto his side and observed that Landeros' face had turned blue. He did not have a pulse and was unresponsive. Officers immediately requested medical assistance and began cardiopulmonary resuscitation (CPR) on Landeros.² Cosumnes Fire Department personnel arrived, continued treatment, and transported Landeros to Kaiser Permanente South Sacramento Medical Center. Landeros was pronounced deceased at approximately 10:35 p.m.

Jennifer Landeros told detectives that her husband was agitated and acting differently earlier that day. He and his wife later ran some errands. However, Landeros drove his vehicle fast, sped

² A registered nurse and an off-duty firefighter/emergency medical technician drove by the collision, stopped, and got out of their vehicles. Officers contacted these witnesses and requested their assistance.

through some red lights, and passed all of their destinations. When they arrived at Laguna Springs Drive, she got out of the vehicle and Landeros continued driving straight. She did not know why her husband was acting this way. He regularly took Norco for arthritis pain, as well as Gabapentin and Pepsin.

Officer Holstad was wearing a body camera, while his patrol vehicle was equipped with an in-car camera recording system. A subsequent review of these videos show that he and Officer Schafer chased Landeros down Elk Grove Boulevard, deployed the Taser at him twice, and applied their body weight to keep Landeros on the ground. During that time, Landeros yelled, "Hey don't fucking hit me! Don't fucking hit me!" The videos do not show any officers striking Landeros.

Videos from City of Elk Grove traffic cameras were also reviewed. These videos show Landeros driving southbound on Laguna Springs Drive in the number one lane and crossing over to make a wide right turn on westbound Elk Grove Boulevard. Landeros suddenly stopped in the number one lane on Elk Grove Boulevard and caused the vehicle behind it to immediately swerve around to avoid a rear-end collision. Another video shows Landeros traveling northbound on Bruceville Road, running a red light, making an erratic left turn on westbound Laguna Boulevard, and just avoiding a collision with another vehicle entering the intersection. The final video depicts Landeros dangerously crossing lanes on westbound Elk Grove Boulevard, running a red light, traveling into eastbound Elk Grove Boulevard while still driving westbound, and avoiding a collision with another vehicle in the intersection of Elk Grove Boulevard and Bruceville Road. Landeros' collision with the other vehicles was not captured on any traffic camera.

The Sacramento County District Attorney's Crime Lab confirmed the presence of 1508 ng/mL of methamphetamine and 35 ng/mL of amphetamine in a sample of Landeros' blood. According to the criminalist who tested the sample, this amount of methamphetamine is a toxic level and harmful to the body.

Forensic Pathologist Jason Tovar, M.D., conducted an autopsy and concluded that the cause of Landeros' death was sudden death during restraint and methamphetamine intoxication. He also noted that Landeros suffered electro-muscular disruption device injury, blunt force injuries to the head and face, and cutaneous and soft tissue blunt force injuries. The report stated that multiple factors potentially played a role in Landeros' 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, Elk Grove Police officers had probable cause to take Landeros into custody. Witnesses observed Landeros driving recklessly at the intersection of Bruceville Road and Laguna Boulevard, as well as on Elk Grove Boulevard. Officers also observed Landeros speeding on Elk Grove Boulevard while driving on the wrong side of the road. His driving pattern resulted in a head-on collision involving four vehicles and Landeros fled from the scene. Officers had sufficient reasonable articulable suspicion to detain him to investigate the situation further. When Landeros refused to comply with orders to stop trying to flee, Officer Schafer deployed his Taser to detain Landeros and prevent him from running into the traffic on Elk Grove Boulevard. When officers attempted to detain him, Landeros began to physically resist and struggle with them. 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.) Additionally, Landeros 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 Landeros 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, Landeros' physical exertion and methamphetamine intoxication contributed to his death. Landeros never told officers about any medical condition that would have affected how they handled his detention and arrest. Landeros 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 Landeros had become unresponsive, officers checked his condition, called for 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 Daniel Landeros' arrest. Landeros' 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: EGPD Officer Samuel Schafer #270
EGPD Officer Steven Holstad #266
Kimberly Gin, Sacramento County Coroner's Office