



Office of the District Attorney Stanislaus County

Birgit Fladager
District Attorney

Assistant District Attorney
David P. Harris

Chief Deputies
Annette Rees
Marlisa Ferreira
Stephen R. Robinson
Jeffrey M. Laugero
Jeff Mangar

Bureau of Investigation
Chief Terry L. Seese

PRESS RELEASE

For Immediate Release

Date: January 10, 2020
Re: Deputies Found to be Justified

For More Information Contact:

John Goold, Public Information Liaison
Phone: (209) 525-5550

Modesto, California - Stanislaus County District Attorney Birgit Fladager announced today that, after a thorough review of all the relevant evidence gathered during the investigation of the death of Alejandro Sanchez which occurred on May 5, 2018, the cause of death was determined to be accidental and, further, the limited use of force was justified.

A copy of the letter provided to the Stanislaus County Sheriff's Department is attached to this press release.

#

Office: 832 12th Street, Suite 300 Modesto, CA 95354 Mailing: PO BOX 442 Modesto, CA 95353
Telephone: (209) 525-5550 Fax: (209) 558-4027 www.stanislaus-da.org



<https://www.facebook.com/StanislausDistrictAttorney/>



Office of the District Attorney Stanislaus County

Birgit Fladager
District Attorney

Assistant District Attorney
David P. Harris

Chief Deputies
Annette Rees
Marlisa Ferreira
Stephen R. Robinson
Jeffrey M. Laugero
Jeff Mangar

Bureau of Investigation
Chief Terry L. Seese

January 9, 2020

Sheriff Jeff Dirkse
Stanislaus County Sheriff's Office
250 E. Hackett Rd.
Modesto, CA 95358

Re: Death of Alejandro Sanchez

Dear Sheriff Dirkse:

This office has completed our review of the investigation into the death of Alejandro Sanchez (D.O.B. 4/17/1980) which occurred on May 5, 2018 in the City of Modesto in the area of South 7th Street within the Sheriff's jurisdiction. It is reported that Sanchez died as the result of a head injury. Our joint investigation has determined that the head injury was most likely the result of an accidental fall Sanchez suffered when he tried to attack a Sheriff's deputy. However, even if it were determined that the injury occurred during the subsequent attempted arrest of Sanchez, the use of force by those involved was minimal (not excessive) and justified. We now view this matter as closed.

FACTS

On May 5, 2018 at approximately 1027 hours (10:27 a.m.), Deputy Bret Babbitt and his Field Training Officer (FTO) Deputy Shane Rohn stopped at the truck stop on South 7th Street for a break. Dep. Rohn went inside and Dep. Babbitt remained with the patrol car. Almost immediately Dep. Babbitt was approached by Alejandro Sanchez.

Sanchez began trying to convince Dep. Babbitt that his truck frame had been stolen; not that the truck was stolen but that the frame was pulled out of the truck. Sanchez had driven the truck to the truck stop and it was visible to Dep. Babbitt. However, there was no license plate on the truck. FTO Dep. Rohn returned and approached Dep. Babbitt and Sanchez. Sanchez continued to make irrational statements and it became clear to both deputies that something was not right with Sanchez. Dep. Rohn asked Sanchez to have a seat on the curb. Another sheriff's patrol car passed by and pulled into the truck stop as well – it was occupied by Deputy Justin Camara and his Field Training Officer Deputy Eugene Day.

Dep. Babbitt went to the truck and "ran" the vehicle identification – it was discovered the truck had not been registered in over a year and was reported as a "non-op." Dep. Babbitt was going to cite Sanchez for the registration violation and Dep. Camara had the task of towing the vehicle (for the registration violation). Dep. Rohn explained to Sanchez what the problem was and Sanchez seemed to accept the facts, but was also a bit irrational. Sanchez asked to use his cellphone to call

for a ride which he was allowed to do. Dep. Rohn asked Sanchez if he was on any medication or illegal drugs. Sanchez did not respond, but became agitated. All witnesses would describe the subsequent events as unfolding rapidly and without pause.

As Dep. Babbitt reached his patrol car and Dep. Camara started his paperwork to tow the truck, Sanchez opened his phone. As soon as Sanchez opened his phone he began screaming into it "help me, they are trying to kill me." At least one of the deputies asked Sanchez to calm down; the other deputies turned their focus to Sanchez and his now very irrational behavior. As Sanchez yelled he tried to stand up from the curb¹, but the nearest deputies placed their hands on his shoulders and told him to remain seated. This occurred twice.

Dep. Babbitt had moved to a position to be standing next to Sanchez who was still sitting on the curb. Sanchez had not been patted down or searched and Dep. Babbitt felt this was a safety risk for the officers. Both Dep. Rohn and Dep. Babbitt stated that they believed that Sanchez was under the influence of a drug of some kind. Dep. Day had also moved to be within arm's length of Sanchez's position on the curb.

Dep. Babbitt attempted to take the phone from Sanchez's hand. At the same time, Sanchez rose to his feet, but this time he became entangled with Dep. Babbitt who now had hold of Sanchez's hand. Sanchez and Dep. Babbitt ended up falling to the ground. Due to the close proximity between the deputies and Sanchez, it was unclear if Sanchez grabbed Dep. Babbitt because he was falling or intentionally attacked him. The fact that a suspect and a deputy fell to the ground caused the other deputies to react as well.

All the deputies, when later asked, believed that they had probable cause to arrest/detain Sanchez based on his driving violation, behavior, intoxication and/or now the physical altercation with Dep. Babbitt. Sanchez was approximately 6'4" and 240 pounds. He actively resisted being handcuffed. Despite deputy commands for him to stop resisting, he fought on and even bit Dep. Babbitt. The four deputies used their combined weight to hold Sanchez down, but he was able to "push up" off the ground until their weight forced him back down to the ground. This struggle continued until additional units arrived and handcuffs were placed on Sanchez. Sanchez was then placed in a "wrap."

Sanchez was being transported to the hospital for clearance, but on the way it was noticed he was unresponsive. He was driven "code 3" to the hospital but died from a "subarachnoid hemorrhage." Pursuant to the countywide protocol, an investigation was commenced.

All of the involved deputies were interviewed, separately, and explained the circumstances leading up to the incident. All of the deputies denied striking Sanchez with any weapon or tool (which fact was confirmed by each of the other deputies during their interviews). At the time of the interviews, it was believed that Sanchez must have suffered either from a breathing event or excited delirium due to the lack of any physical actions on the part of the deputies other than using their combined weight to hold him down until he could be handcuffed.

¹ Sanchez was seated on a raised concrete curb/planter structure that surrounded an area in the parking lot. The curbing structure is similar to what is found in front of/next to a sidewalk, but the structure in question had no concrete pad (or flat surface) adjacent to it.

It was discovered that Sanchez had mentioned when sitting on the curb that he had been at the Ceres Police Department earlier in the day. A check with CPD established that Sanchez had gone to CPD to report the theft of his truck frame. This interaction was captured on video. Sanchez appeared paranoid and under the influence. A CPD sergeant told Sanchez (in the video) the engine is the original and said, "You have smoked way too much weed, I'm being honest with you..." Sanchez turned around and seemed to be upset and said he was going to Ripon then [where Sanchez claimed the frame theft occurred]. The sergeant then told him to go to Ripon "because I'm telling you right now you've lost your mind." Sanchez turned away saying "oh my God, are you serious?" The sergeant continued, saying "You need to get professional help" and added, "Be careful because something's not right upstairs." Sanchez said he would come back after he was done in Ripon and he was told not to return. This occurred at 1022 hours, roughly five minutes before his encounter with the deputy sheriffs.

As part of the investigation, the Pathologist (doctor) was interviewed by a DA criminal investigator and a Sheriff's detective. The doctor explained that Sanchez died from a head injury – a traumatic subarachnoid hemorrhage. Sanchez had a contusion on the right side of his face and corresponding hemorrhage to the brain. The hemorrhage had also transferred to the opposite side of the brain. The doctor opined that the injury was consistent with an impact, but there was no skull fracture. The doctor explained that the contusion on the face was “consistent with” Sanchez’s “face impacting a hard surface and abrading the top layer of skin.” The fact that a hemorrhage was also found on the opposite side of the head lead him to believe the “injury was consistent with a fall” and “not caused from blunt force trauma from an impact weapon.”

Sanchez was also found to be “intoxicated on methamphetamine.”

LAW

In California, as with the rest of the nation, not every action that results in the death of a person is a murder. Were the law to be so, every car accident where someone died would turn large numbers of drivers into murderers; clearly that is not the law and reflects common sense. Even in the context of criminal law, a killing through accident or misfortune is excusable and is not a crime. (Penal Code §195, subd. (1).)

Another significant factor of criminal law is what is called causation. As explained by one court:

“ ‘The principles of causation apply to crimes as well as torts. [Citation.] ‘Just as in tort law, the defendant's act must be the legally responsible cause (‘*proximate cause*’) of the injury, death or other harm which constitutes the crime.’ ” ’ [Citation.] So too, California criminal law relies on civil law formulations of concurrent and superseding cause. [Citations.] [¶] ‘[T]he law defines “cause” in its own particular way.’ [Citation.] A ‘cause of [death] is an act or omission that sets in motion a chain of events that produces as a direct, natural and probable consequence of the act or omission the [death] and without which the [death] would not occur.’ ”

People v. Dawson, (209) 172 Cal. App. 4th 1073, 1093–94.

To put it another way, to assign criminal liability to someone it must be proved that they committed the act (proximate cause) that caused the harm and that there was not another intervening act that caused the harm. Additionally, for a killing to be “accidental,” a person must act without criminal negligence. (See People v. Villanueva (2008) 169 Cal.App.4th 41, 54 & fn. 12.)

An example of how this works is a car crash where both drivers are injured. In most circumstances, one driver will be the proximate cause of the crash and resulting injuries and therefore may be criminally responsible if criminally negligent (violated some law). But what if one of the drivers was drunk, but did not cause the crash? That driver would be guilty of DUI, but he/she is not criminally responsible as the “proximate cause” of the other driver’s injuries.

It is clear that Sanchez fell and hit his head. There is no Sheriff’s deputy who can be singled out as causing Sanchez to fall. Therefore, there is no causation. Even if we assume that when Sanchez and Dep. Babbitt fell together that somehow Babbitt can be accused of causing the fall, Sanchez’s actions of grabbing Dep. Babbitt and not bracing his own fall would be an intervening cause of his head injury. Sanchez’s intoxication on methamphetamine could have contributed to his fall and this would be an intervening cause. Based on the known facts, we will not assume that Dep. Babbitt caused Sanchez to fall. Without causation there is no crime and Sanchez died due to an accident that he triggered.

To take this analysis even further, even if we were to assume that all of the involved deputies had grabbed Sanchez to “take him to the ground” during his detention this would still have been an accidental death – and to be clear we do not believe that the facts as shown by the witness statements or the physical evidence support such an assumption. Case law mandates this finding. As one appellate court has held, when an officer is accused of causing death and the defense is that death was accidental, the jury should be instructed with a version of CALCRIM No. 510 containing additional language favorable to the defense and which states:

“The defendant is not guilty of murder or the lesser crime of voluntary manslaughter or involuntary manslaughter if he killed someone as a result of accident. Such a killing is excused, and therefore not unlawful, if:

“1. The defendant was a peace officer and was doing a lawful act in a lawful way;

“2. The defendant was acting with usual and ordinary caution expected of a reasonably careful peace officer in the same or similar situation;

“AND

“3. The defendant was acting without any unlawful intent.

“A peace officer acts with usual and ordinary caution if he acts in a way that a reasonably careful peace officer would act in the same or similar situation.

“The defendant is not guilty of involuntary manslaughter if he acted accidentally without criminal negligence. You may not find the defendant guilty of involuntary manslaughter unless you are convinced beyond a reasonable doubt that he acted with criminal negligence. Criminal negligence is defined in another instruction.

“The People have the burden of proving beyond a reasonable doubt that the killing was not excused. If the People have not met this burden, you must find the defendant not guilty of murder and the lesser included crimes of voluntary and involuntary manslaughter.”
People v. Mehserle, (2012) 206 Cal. App. 4th 1125, 1139.

A homicide by accident is an excusable homicide. It is an unintended homicide which occurs in the course of performing a lawful act, without criminal negligence. Homicide by accident, 2 Wharton's Criminal Law § 138 (15th ed.) The use of force by a peace officer is governed by the reasonableness standard of Fourth Amendment. As the U.S. Supreme Court has said:

“The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.... With respect to a claim of excessive force, the same standard of

reasonableness at the moment applies: 'Not every push or shove, even if it may later seem unnecessary in the peace of a judge's chambers,' [citation] violates the Fourth Amendment. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments-in circumstances that are tense, uncertain, and rapidly evolving-about the amount of force that is necessary in a particular situation."

Graham v. Connor, (1989) 490 U.S. 386, at p. 396-397.

CONCLUSION

Based on the law, it is clear that no criminal activity on the part of any Sheriff's deputy occurred. Sanchez's death occurred due to an accident – he fell and hit his head. Even if the deputies used their weight to hold Sanchez down and this caused him to hit his head, the cause of his death would still be accidental. As the elements of the jury instruction given in Mehserle show, all of the deputies here acted within the professional (and reasonable) standards of ordinary caution expected of a reasonably careful peace officer in the same or similar situation. Had Sanchez not attempted to jump to his feet and grabbed Dep. Babbitt, he would have received his citation and been on his way. It was Sanchez who was the proximate cause of his own injury, both legally and factually.

It is therefore not required for us to determine if the deputies were justified in their actions because of the accidental nature of death. However, to ensure that those who may question such a finding understand, the minimal force used to hold Sanchez on the ground was reasonable and would have been justified. Assuming, arguendo, that the deputies decided to arrest Sanchez and pulled him or forced him to the ground, his resistance and biting of Dep. Babbitt clearly demonstrate a need for their use of force to maintain control over Sanchez. This use of force would have been reasonable. A finding of reasonableness/justification under Graham, Mehserle and Dawson mean that the death would still be accidental. This office will take no further action in the matter and views the investigation as closed.

Very truly yours,

BIRGIT FLADAGER
District Attorney



David P. Harris
Assistant District Attorney

cc: Deputy Bret Babbitt
Deputy Shane Rohn
Deputy Justin Camara
Deputy Eugene Day