



PUBLIC RELEASE MEMORANDUM

Date: August 7, 2020

Subject: Fatal Officer-Involved Incident

Involved Officers: Officer Matt Gregory
Chino Police Department

Officer Jessica Asbee
Chino Police Department

Corporal Steven Beckman
Chino Police Department

Sergeant Ted Olden
Chino Police Department

Involved Subject/DOB: Jaime Holguin, 09/04/1965
Subject's Residence: Whittier, California

Incident Date: November 4, 2018
Incident Time: 5:56 p.m.

Case Agent/Agency: Detective Bruce Southworth
San Bernardino County Sheriff's Department

Agency Report #: H# 2018-105
DR# 601800150

DA STAR #: 2020-00-18993

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PREAMBLE

This was reviewed based on the fact that the person died while in the control of a peace officer after force had been used by officers from the Chino Police Department. The investigation in this matter was conducted by the San Bernardino County Sheriff's Department. This factual summary is based on a thorough review of all the investigative reports, photographs, body-worn video recordings, surveillance video recordings, and audio recordings submitted by the San Bernardino County Sheriff's Department, case number DR# 601800150 and H# 2018-105.

FACTUAL SUMMARY

On Sunday, November 4, 2018 shortly before 5:56 p.m., Jaime Holguin entered the Black Bear Diner located at 12325 Mountain Avenue in the city of Chino. As Holguin entered the diner, he pushed past a group of customers in front of him who were trying to enter the diner. Holguin was stumbling, sweating profusely, and yelling. Holguin yelled, "They are following me, they have a gun, I have a gun." Holguin walked to the front counter and began leaning on a cash register, trying to hold himself up, while continuing to yell. Holguin's yelling was laced with profanities and was at times unintelligible. Employees at the diner asked Holguin to calm down and believed he was possibly drunk or under the influence of drugs. Several employees came to the front of the restaurant to assist. An employee called 911, but then hung up. Another employee asked Holguin to sit down on a bench in the lobby area. Holguin initially protested, yelling, "Not in front of the window!" Holguin finally sat down on a bench against a block wall. Within seconds of sitting down, Holguin began banging his head on the block wall behind him. The employees implored him to stop as he was hurting himself.

Holguin then got up and continued yelling. Many of the men in the dining room stood up in response to Holguin's disruptive behavior. Holguin suddenly headed for the employee service area behind the front counter in the direction of the kitchen. Fearing Holguin would have access to knives and heavy pots in the kitchen, several employees tried to stop Holguin. As they grabbed onto Holguin, they all fell to the ground, where the employees struggled to hold Holguin down.

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In response to the hang-up, a 911 operator called the restaurant back. An employee told the 911 operator what was occurring. The 911 operator could hear the disturbance over the phone. When the employee told the operator that several other employees were holding a disruptive subject down on the ground, the 911 operator dispatched the police to the diner at 5:57 p.m.

Chino Police Department Officer Matthew Gregory arrived on scene at 6:01 p.m. The restaurant's general manager escorted Officer Gregory into the diner. Holguin could be heard yelling and grunting loudly from behind the service counter as Officer Gregory quickly approached. Officer Gregory saw Holguin was fighting with employees as they struggled to hold him down on the ground. Officer Gregory interrupted the struggle and told Holguin to listen to him. Officer Gregory calmly explained to Holguin, "I need you to follow my commands or force may be used against you." Holguin mumbled, "Okay." The employees backed away while Officer Gregory spoke to Holguin. Holguin remained lying on the ground in obvious distress, kicking his legs, moving his arms, and thrashing his body around on the floor. Officer Gregory took ahold of Holguin's left hand and asked him if he understood. Holguin did not respond. Officer Gregory asked Holguin if he had any weapons. Holguin's response was unintelligible. Holguin continued kicking and throwing his arms around uncontrollably. An employee assisted Officer Gregory and took ahold of Holguin's right arm. Officer Gregory continued to talk to Holguin to get him to relax.

Officer Gregory told Holguin to relax in both English and in Spanish, multiple times. Holguin slurred his words and asked, "Who are you?" Officer Gregory told him he was a police officer. Officer Gregory helped Holguin sit up while he directed him to sit up. Holguin initially sat up but then screamed and laid back down on the floor. Officer Gregory asked the nearby employees for information about what occurred with Holguin. While an employee quickly told Officer Gregory what had happened, Holguin writhed around on the ground, kicked his legs and flailed his arms and knocked restaurant supplies off the nearby shelves. Holguin reached toward a stack of heavy dinner plates, but an employee was able to move them out of his reach. Unable to control Holguin by himself, Officer Gregory asked an employee to help him. Together, Officer Gregory and the employee tried to hold Holguin's wrists while Officer Gregory attempted to put handcuffs on him. After getting one handcuff onto Holguin's wrist, Holguin grabbed onto the other handcuff with his free hand. Finally, after much struggle with Holguin's hands, Officer Gregory, with the assistance of the restaurant employee, was able to get Holguin handcuffed to the front of his body.

At 6:03 p.m., Officer Gregory called over his radio for medical aid for Holguin, stating he was "possibly UTI."¹ Officer Asbee arrived shortly thereafter, followed by Corporal Beckman. Together, the three officers tried to assist and control Holguin as he continued to yell, grunt, and flail about on the floor. Sergeant Olden arrived on scene, followed shortly thereafter by Chino Valley Fire Department's arrival at 6:08 p.m.

¹ UTI is an acronym for Under The Influence.

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Officer Gregory, Corporal Beckman, and Sergeant Olden carried Holguin outside and placed him down on the grass, where the firefighter paramedics tried to assess him. Holguin continued to struggle, which made it difficult for the paramedic to obtain Holguin's vital signs. Eventually, the officers, aided by a firefighter paramedic, were able to move Holguin to a gurney. As Holguin continued to struggle, the medics and the officers began to place his legs in the gurney's soft restraints. Holguin stopped struggling while his arms were being secured into the soft restraints. Sergeant Olden asked a firefighter near Holguin's head if Holguin was still breathing. The firefighter answered in the affirmative. Holguin was then wheeled away to the awaiting ambulance where he subsequently went into full arrest. Chest compressions and other life saving measures were begun and Holguin was transported to the hospital. Once at the hospital, life saving measures continued until Holguin was pronounced deceased by the attending emergency room physician at 6:50 p.m.

STATEMENTS BY POLICE OFFICERS²

All Chino Police Department Officers who responded to the scene on November 4, 2018, wore readily identifiable police uniforms consisting of black pants, long sleeved polo shirt, load bearing vest with Chino Police Department badges on the chest, their names, police patches on each shoulder, and the word "Police" in very large letters on the back. All officers also carried the following tactical gear: Body worn camera on the right shoulder, HT microphone on the chest, a police radio, magazines holding ammunition, oleoresin pepper spray, a baton, a flashlight, and handcuffs. The officers' carried their duty weapons, which were Glock 17 handguns. None of the officers used any weapons or tactical gear, other than handcuffs, during their encounter with Holguin.

All officers were interviewed shortly after the incident involving Holguin. Each of the officers gave similar descriptions of Holguin's physical state, demeanor, and actions. Holguin was described as very hot to the touch, extremely sweaty, very strong, continually rolling around on the floor, kicking, flailing his arms, saying things that did not make sense, and appearing to be paranoid.³

On November 4, 2018, at approximately 11:30 in the evening, Officer **Matthew Gregory** was interviewed by Detectives Narcie Sousa and Julius McChristian of the San Bernardino County Sheriff's Department.

Officer Gregory was employed by the Chino Police Department as a police officer for three years. Prior to this, Officer Gregory was employed as a deputy sheriff for the San

² Herein is a summary only. All reports submitted were reviewed, but not all are referenced here.

³ Restaurant diners and patrons also gave similar descriptions of Holguin.

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Bernardino County Sheriff's Department for approximately two years. Officer Gregory is a drug recognition expert.⁴

On November 4, 2018, Officer Gregory was on duty and assigned to patrol. At approximately 5:57 in the evening, Officer Gregory was dispatched to a public disturbance at the Black Bear Diner in Chino located at 12325 Mountain Avenue in the city of Chino. According to dispatch, there had been a call for service from the Black Bear Diner regarding a male who had come into the restaurant causing a disturbance and asking for paramedics. The initial caller hung up. Dispatch called back and the person at the diner then asked for the police. When Officer Gregory was half-way to the diner, dispatch reported the male subject had struck someone in the restaurant and the employees were holding him down. Officer Gregory then activated his car's emergency lights and sirens to go Code Three. At the same time, Sergeant Olden instructed dispatch to have the closest unit respond to the location Code Three. Officer Gregory advised over the radio he was responding Code Three from Mountain and Walnut. Officer Gregory activated his body-worn camera at this time.

Officer Gregory arrived on scene at 6:01 p.m. and saw a person standing at the doorway to the diner yelling for Officer Gregory to run. Officer Gregory ran inside the diner and was quickly directed to the area behind the employee service counter. Officer Gregory heard a lot of commotion and yelling coming from behind the counter and when he stepped behind it, he saw three employees holding down a male subject on the floor. The male subject was later identified as Jaime Holguin.

Officer Gregory knew Holguin had possibly struck somebody in the restaurant and he had caused a disturbance to such an extent that employees had to hold him down. Officer Gregory crouched down near Holguin's head and gave him a use-of-force warning as he was trained to do, telling Holguin he needed to follow his commands or force may be used against him. As he did so, the employees released Holguin and backed away. Officer Gregory did not recall hearing Holguin acknowledge the use-of-force warning.

Officer Gregory thought once the employees let go of Holguin, Holguin would want to go outside with him and tell him what was going on. However, Holguin was yelling non-sensical things and was waving his arms around and flailing while still lying on the ground. Officer Gregory told Holguin to relax in both English and Spanish because he did not know if Holguin spoke English. Officer Gregory tried to help Holguin sit up, but Holguin just flopped back and hit his head on the ground. Officer Gregory grabbed Holguin's arms by the wrist to control him due to his physical behavior. Based upon his

⁴ A Drug Recognition Expert is an officer who has received specialized training and has been certified by the International Association of Chiefs of Police to evaluate suspects and determine if a subject is impaired, what category of drugs is causing the impairment, and whether a medical condition is causing the impairment.

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training and experience, Officer Gregory believed Holguin was under the influence of a stimulant drug. Holguin continued yelling and flailing his arms, legs, and body. At one point, Holguin said somebody had stabbed him or cut him and somebody was chasing him.

As Holguin continued to throw his arms around, Officer Gregory lost his grip on Holguin's arms. Officer Gregory did not believe Holguin was trying to assault him; however, he could not maintain control over Holguin. Officer Gregory decided to handcuff Holguin for both officer safety and the safety of the occupants of the restaurant. As he crouched down next to Holguin, Officer Gregory tried to put handcuffs on him. Officer Gregory was unable to roll Holguin over onto his stomach, so he tried to handcuff Holguin's hands in front. While normal police procedure calls for subjects to be handcuffed to the rear, given Holguin's level of delirium and resistance, Officer Gregory decided to handcuff him in the front. Officer Gregory was unable to control Holguin's hands by himself, so he asked an employee standing nearby for assistance.

Officer Gregory was able to put one handcuff on Holguin, but Holguin grabbed onto the other handcuff and would not let go. Officer Gregory and the employee had to wrestle the handcuff from Holguin's grip before he could be cuffed successfully. Officer Gregory estimated it took two minutes to handcuff Holguin. As soon as Holguin was handcuffed, Officer Gregory called for the Chino Fire Department to respond to the scene, advising them he had a male possibly under the influence.

Officer Gregory was filled in by the employees about Holguin's disruption at the restaurant and why the employees detained him. Officer Gregory learned an employee had been injured during the scuffle with Holguin.

Officer Asbee arrived shortly thereafter. Holguin was still in an altered state and continued to flail around. Officer Gregory and Officer Asbee held Holguin there waiting for the fire department to arrive. Corporal Beckman arrived about a minute after Officer Asbee. Corporal Beckman put one hand on Holguin's belt and one hand on the back of his collar while Officer Asbee held onto Holguin's legs. They discussed Holguin's need for medical attention and their desire to get him outside to the paramedics where they could get him onto a gurney with soft restraints. Officer Gregory offered to hold Holguin's legs for Officer Asbee so she could go interview witnesses to determine what had happened. Officer Gregory and Corporal Beckman stayed with Holguin and tried to get him to tell them his name. Officer Gregory heard Corporal Beckman question Holguin about using meth, and Holguin said he had used a lot.

Sergeant Olden arrived shortly after Corporal Beckman. The officers worked together to carry Holguin outside. Sergeant Olden and Corporal Beckman held onto Holguin's arms and Officer Gregory crossed Holguin's legs and carried them under his arm. Officer Gregory walked in front with the other officers walking behind Officer Gregory, carrying Holguin's body. They gently placed Holguin down on a patch of grass in

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between the restaurant and the street. Officer Gregory estimated the distance they carried Holguin was approximately 30 feet. The fire department had arrived, and the firefighter paramedic tried to get Holguin's vitals, but Holguin continued to rant and flail around. Officer Gregory and Corporal Beckman sat there with Holguin, at his side, tried to talk to him to calm him. Corporal Beckman had one hand on the back of Holguin's belt and the other on Holguin's collar. Holguin was lying on his stomach propped up on his hands underneath him.

At this point, Holguin calmed down briefly.⁵ At one point the firefighter paramedic was able to get Holguin's pulse and Officer Gregory saw it was very high, approximately 180 beats per minute. The paramedic was unable to get Holguin's blood pressure due to his behavior. At this point, everyone agreed as soon as the ambulance arrived with the gurney and had it ready, they would get him onto the gurney, place him into gurney's soft restraints, and transport him to the hospital.

The American Medical Response (AMR) ambulance arrived approximately three minutes after they brought Holguin out of the restaurant. Right before the ambulance arrived, Holguin started flailing his body, kicking, and fighting again. Officer Gregory straddled one of Holguin's legs and held onto Holguin's belt and his backside. Corporal Beckman straddled his body over Holguin's buttocks. Sergeant Olden was near Holguin's head. He and the other officers used controlling force⁶ only to prevent Holguin from hurting himself or others around him.

Once the gurney was ready for Holguin, they moved him onto it. Together, the officers rolled Holguin onto his back and then lifted him. Officer Gregory and a firefighter lifted Holguin's legs while Corporal Beckman and Sergeant Olden and a couple other people lifted Holguin onto the gurney. Holguin continued to struggle and fight, making it somewhat difficult to get him to the gurney. Once Holguin was lying down on his back on the gurney, he continued to struggle, was yelling, and was trying to kick. Officer Gregory helped the fire department and the paramedics by holding one of Holguin's legs while they put the soft restraints on his legs. They then put a seatbelt around Holguin's waist as he continued to struggle and yell. They got one handcuff removed and put one of Holguin's arms into the soft restraints and then put the other arm into the soft restraint. Holguin then "calmed down" and was no longer struggling or yelling. Officer Gregory estimated it took only one minute to secure Holguin into the soft restraints. Officer Gregory was going to remove the handcuff from Holguin's other wrist but needed his flashlight to see.

Officer Gregory stepped away briefly to get his flashlight. When he turned to walk back, he saw Holguin was being wheeled off to the ambulance. Officer Gregory believed

⁵ According to Officer Gregory, Holguin would go from kicking, flailing about and yelling to being calm. His disposition fluctuated a lot between the two states.

⁶ According to the officers involved, the Chino Police Department's definition of "controlling force" is holding a person down and controlling his or her movements. It does not include strikes or any use of weapons.

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someone handed him his handcuffs. Sergeant Olden told Officer Gregory to follow the ambulance to the hospital and to do his follow-up there. Officer Gregory got into his patrol vehicle, made a U-turn, and waited in the median for the ambulance to depart.

While he waited, Officer Gregory could see Sergeant Olden was still at the scene talking to Officer Asbee and Corporal Beckman. Officer Gregory got out of his patrol car and walked over to talk to them and learned Holguin had gone into cardiac arrest. Officer Gregory walked over to the ambulance and saw the paramedics were doing chest compressions on Holguin. Once the ambulance left for the hospital, Officer Gregory followed it. At the hospital, Holguin was put in one of the trauma rooms at the emergency ward where they continued doing chest compressions.

Officer Gregory said during their contact with Holguin, they only used controlling force. Officer Gregory said it was a struggle to control Holguin, but he did not feel like he needed to escalate the force to the next level at any time.

On November 4, 2018, at approximately 11:30 in the evening, Officer **Jessica Asbee** was interviewed by Detectives Arturo Alvarado and Walter Peraza of the San Bernardino County Sheriff's Department.

Officer Asbee was employed by the Chino Police Department as a police officer. Officer Asbee had been employed as a police officer for Chino Police Department for approximately three years. Before that, she was employed as a correctional deputy for the Riverside County Sheriff's Department for approximately two years.

On November 4, 2018, Officer Asbee was on duty and assigned to patrol. On this date, at approximately 5:57 in the evening, Officer Asbee was dispatched to a public disturbance at the Black Bear Diner.⁷ Officer Asbee arrived at the diner approximately two minutes after Officer Gregory.

As Officer Asbee arrived at the diner, she heard Officer Gregory call dispatch for the fire department to respond to the scene for an under the influence subject. Officer Asbee walked inside the restaurant and approached the area behind the register where she saw Officer Gregory and an employee holding a male subject down. The male subject was lying on his side with his hands out to the front. The male subject was later identified as Jaime Holguin⁸. Holguin was handcuffed to the front and was yelling, "flaring around," and kicking.⁹ Officer Asbee did not want the civilian employee involved, so she grabbed Holguin's legs. Officer Asbee put pressure on both of his legs so he wouldn't continue kicking. Officer Asbee did not think Holguin was trying to kick

⁷ Officer Asbee's details about the dispatch call were the same as those given by Officer Gregory.

⁸ Officer Asbee explained that hospital staff found a wallet in Holguin's pocket and it contained his California ID. Officers were able to positively identify Holguin from the California ID photo. Officer Asbee had no prior contact with Holguin.

⁹ Officer Asbee gave a detailed description of Holguin. That description was the same as the description given by other officers and witnesses.

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her; he was just trying to kick free. Officer Asbee and Officer Gregory held Holguin down while waiting for the fire department to get there.

Officer Asbee asked Officer Gregory why Holguin was handcuffed to the front. Officer Gregory explained he had been unable to handcuff Holguin to the rear because he was the only officer there and he couldn't control him enough to get Holguin's hands behind his back to handcuff him. Officer Asbee and Officer Gregory debated whether they should try to get Holguin handcuffed to the rear, but decided they needed to wait for backup to arrive. Officer Asbee knew backup was close by. Officer Asbee continued holding Holguin's legs. Officer Gregory spoke to Holguin, telling him to relax and explaining paramedics were on the way in an effort to keep him calm.

When Corporal Beckman arrived, the officers discussed putting Holguin's hands behind his back. The officers decided not to move the handcuffs, and to instead wait for the paramedics to arrive with a gurney.

While Holguin was on his stomach, Officer Asbee found it easier to hold his feet because she was able to cross his ankles and bend them up to his buttocks. This helped her keep him from continually kicking. However, Holguin was still able to kick her off even when his legs were crossed and folded up against his buttocks. Officer Asbee said typically people do not have a lot of strength in that position. When Officer Asbee described Holguin's strength, she likened it to what some people refer to as "superman strength." Based on her training and experience,¹⁰ Officer Asbee believed he was either under the influence of PCP or he was experiencing excited delirium.¹¹

While Holguin was on his stomach, his hands were out in front of his head, like in a "diving position." Sergeant Olden arrived next and he communicated with the paramedics. Officer Gregory relieved Officer Asbee from holding Holguin's feet so she could gather preliminary statements from witnesses. After briefly speaking to some of the employees, Officer Asbee walked back over to the officers and Holguin. Officer Gregory, Corporal Beckman, and Sergeant Olden lifted Holguin up and carried him outside and set him down in the grass area. While being moved and placed onto the grass, Holguin did not strike anything or make forceful contact with the ground or any other object. When the officers were carrying Holguin outside, Officer Asbee saw fire personnel were already there, however, the ambulance and gurney were not.

Sergeant Olden told Officer Asbee to go back inside the restaurant to get statements from the patrons as to whether they saw the officers use excessive force, or any kind of force. Officer Asbee went back inside the restaurant and interviewed two different

¹⁰ Officer Asbee has attended Driving Under the Influence school which included training regarding controlled substances. In addition, Officer Asbee's field training officer was a drug recognition expert and he imparted a great deal of his training to her.

¹¹ According to the US National Library of Medicine National Institutes of Health, Excited delirium is characterized by agitation, aggression, acute distress and sudden death, often in the pre-hospital care setting. It is typically associated with the use of drugs that alter dopamine processing, hyperthermia, and, most notably, sometimes with death of the affected person in the custody of law enforcement. Subjects typically die from cardiopulmonary arrest, although the cause is debated.

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couples. All the witnesses said the officers did not use excessive force to control Holguin. Officer Asbee did not get the names of the witnesses because at the time she obtained their statements, it was not a death investigation.

After Officer Asbee talked to the witnesses, she went back outside. She put on some gloves and saw Holguin was still being held down on the grass while officers waited until the AMR ambulance brought the gurney up to them.¹² Holguin was on his right side but turned slightly onto his stomach. Holguin's hands were out in front of him, to the side. Sergeant Olden held Holguin's arms and the back of his head to keep him from getting up; Holguin's face was not in the grass as he was turned slightly to the side. Officer Asbee relieved Sergeant Olden's position and held the side of Holguin's head and his shoulder.¹³ Holguin continued to try and get up.

The officers made a plan that once the gurney was ready for Holguin, they would turn him onto his back and then lift him up onto the gurney.¹⁴ Holguin was carried facing up and was placed on his back onto the gurney; Holguin continued moving and yelling while they moved him. Officer Asbee grabbed underneath Holguin's armpits from behind to pull his head where it was supposed to be on the gurney. Officer Asbee held Holguin's shoulders down while the others worked on getting the soft restraints on Holguin's arms and legs. After Holguin's legs were in the soft restraints, they began putting the soft restraints on his arms when Holguin went calm and was no longer fighting. Holguin's eyes were still open. A firefighter held Holguin's head to the side.

Someone near Holguin's feet asked if he was still breathing. The firefighter beside her answered that Holguin was fine, but within seconds, he said, "Actually, let me go feel for a pulse," and put his hand on Holguin's neck to feel for a pulse. Officer Asbee didn't know if he was having trouble finding a pulse, so she put her hand on his chest. Because the paramedics and the officers moved Holguin around to get his arms into the soft restraints, Officer Asbee was unable to determine whether his chest was moving up and down. The firefighter then said Holguin was out, and they needed to start chest compressions. Holguin was placed into the ambulance where one of the firefighter paramedics started chest compressions. Within a few minutes, the paramedics said Holguin had gone into full arrest and they needed to transport him to the hospital.

Officer Asbee followed the ambulance as it transported Holguin to the hospital. The hospital was about half a mile away, so the transport was quick. Officer Asbee saw Holguin was receiving chest compressions, or CPR, when the paramedics moved him from the ambulance to the hospital. Once Holguin was placed into a room, Officer Asbee did not see anything else. Officer Asbee remained at the hospital until she was relieved.

¹² Officer Asbee believed the AMR paramedics got there approximately five minutes after she had arrived at the diner.

¹³ Officer Asbee explained that the reason the officers held onto the side of Holguin's head was because they were trained that wherever the head goes, the body will follow.

¹⁴ Officer Asbee did not assist in carrying Holguin onto the gurney.

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Officer Asbee said while inside the diner, no unnecessary pressure was placed on Holguin's back. Officer Asbee did not see the entire contact with Holguin outside because she had gone back inside the diner to talk to witnesses. However, when Officer Asbee returned outside, she saw the officers only had pressure on Holguin's shoulder. Officer Asbee explained Sergeant Olden had pressure on Holguin's shoulder and she then took over and put pressure on Holguin's shoulder. Officer Asbee said Holguin never hit his head on the ground.

On November 5, 2018, at approximately 1:14 in the morning, Corporal **Steven Beckman** was interviewed by Detectives James Williams and Brian Arias of the San Bernardino County Sheriff's Department.

Corporal Beckman was employed by the Chino Police Department as a police officer corporal and is a K9 handler. Corporal Beckman has been employed as a police officer for Chino Police Department for approximately nine years. Before that, he was employed as a police officer for the Colton Police Department for approximately two years. Prior to becoming a peace officer, Corporal Beckman worked as an Emergency Medical Technician.

On November 4, 2018, Corporal Beckman was on duty and assigned to patrol. Shortly before 6:00 p.m., Corporal Beckman heard the dispatch call go out regarding a disturbance at the Black Bear Diner. Other police units were assigned to the call. Due to the nature of the call, Corporal Beckman decided to respond.

Corporal Beckman arrived at the restaurant and when he went inside,¹⁵ he could see Officer Gregory's head just above the counter. Corporal Beckman went behind the counter and saw Officer Gregory just off to the side of the subject, later identified as Holguin. Holguin was lying on his stomach but had his hands extended in front. Holguin constantly moved around. Officer Gregory was positioned near Holguin's waist area. At times, Holguin had his chest lifted off the ground and rested up on his elbows. Officer Gregory explained he had only been able to handcuff Holguin to the front. Officer Gregory was very calm and tried to calm Holguin down. Corporal Beckman knew Officer Gregory had called for medical aid before Corporal Beckman's arrival.

Officer Asbee tried to hold Holguin's legs down but Holguin moved his legs up and down and was able to move despite the weight of Officer Asbee. The fact that Holguin was able to do this revealed the kind of strength Holguin had at that time. Corporal Beckman helped Officer Asbee rearrange Holguin's legs so she would have better control of them. Holguin did not appear to be trying to get up but was just constantly moving around on floor. Both Officer Gregory and Officer Asbee appeared to be trying to stabilize Holguin as he continually moved around on the floor.

¹⁵ Corporal Beckman's K9 remained in the patrol car during the incident.

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Corporal Beckman noticed as soon as he touched Holguin on his back, near where his shoulder blades met, Holguin was hot and sweating profusely. Holguin's shirt was soaked with sweat and Corporal Beckman could see beads of sweat coming off Holguin's head, down the side of his head and neck. Corporal Beckman did not have gloves on, so he grabbed some napkins from the nearby counter and put a napkin on Holguin's back and held him like that until he was able to get gloves. Holguin mumbled things which were unintelligible, however, Corporal Beckman did recall him say something to the effect of someone was chasing him. At this point, Corporal Beckman believed Holguin was probably under the influence of a stimulant and, more importantly, Holguin needed to be treated medically as quickly as possible.

Corporal Beckman believed this was a serious medical emergency and they needed to keep Holguin there in a safe position, so he didn't cause harm to himself or others. Holguin was acting irrationally, and Corporal Beckman believed Holguin was, "most certainly a threat to anybody that was in there if we were to allow him to get up." Also, if they were unable to keep Holguin there, he could run off and not receive the medical treatment he truly needed.

Because Holguin's hands were cuffed to the front, for officer safety, Corporal Beckman kept a visual on his hands and tried to control his arms. Holguin's arms were extended out in front of his body but did not remain still at any point as Holguin would bring his hands back in towards his neck and chest area and would use his strength to bridge his body up and try to move. In addition, Corporal Beckman did not want Holguin to hit his head on the nearby metal shelves or anything. Corporal Beckman told Officer Gregory they needed to be careful of positional asphyxia and explained they did not want to pin Holguin down for fear of impeding his breathing. Corporal Beckman kept his hand on Holguin's upper back between his shoulder blades below his neck but did not pin him down and allowed Holguin to lift himself up onto his elbows several times.

Corporal Beckman asked Holguin if he had taken any drugs or methamphetamine so he could tell the fire department when they got there. Corporal Beckman believed Holguin said, "meth" but Holguin was difficult to understand. Corporal Beckman asked him how much methamphetamine, to which Holguin replied, "A lot." Corporal Beckman then repeated, "a lot?" and he believed Holguin said, "Yes." Corporal Beckman asked Holguin what his name was, and he believed Holguin said, "Jaime." Corporal Beckman never got confirmation of this until after the incident. Corporal Beckman tried to calm Holguin down by telling him they were going to get him help and by asking him to calm down. However, Holguin never completely relaxed.

Corporal Beckman and Officer Gregory discussed the need for getting Holguin onto a gurney so he could be transported to the hospital. Several minutes passed before Sergeant Olden arrived on scene. Sergeant Olden observed the officers and Holguin on the ground and then went outside. Sergeant Olden then came back inside and told the officers they were going to carry Holguin outside. Corporal Beckman grabbed onto

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the back of Holguin's belt with his right hand and held Holguin underneath his arm with his left hand. He and the other officers carried Holguin outside. Holguin was positioned face down as they carried him. They placed Holguin down on the grass area outside.

Corporal Beckman saw the fire trucks were there and the firefighters walked towards them. Holguin became more agitated and started reaching his hands back and tried to scratch Corporal Beckman. When Holguin scratched Corporal Beckman, he told him to stop and moved away from Holguin's hands. Sergeant Olden then took control of Holguin's hands. Corporal Beckman maintained his right hand on Holguin's belt. Holguin was down on his stomach in the grass area, but Corporal Beckman did not have his body weight on Holguin. Corporal Beckman's goal was to not pin Holguin down into a position where he could not move, but just in a safe position.

A firefighter paramedic put a pulse oximeter on one of Holguin's fingers and a blood pressure cuff on Holguin's right arm. Corporal Beckman saw the blood pressure monitor readout showing Holguin's pulse was going from 180 to 130 to 150. Once the AMR ambulance arrived, their paramedics brought the gurney onto the sidewalk. Corporal Beckman told them to get the gurney and the soft restraints ready.¹⁶ Within a minute, the paramedics had the gurney ready. The officers picked Holguin up with his back facing down and carried him to the gurney.

A paramedic or a firefighter began putting Holguin's legs into the soft restraints. Officer Gregory removed the left side cuff from Holguin's left wrist as Corporal Beckman maintained control of Holguin's left arm. Corporal Beckman put Holguin's left arm down by his side. Someone put Holguin's left arm into the soft restraint. The same followed with Holguin's right wrist and arm. At this point, Holguin was still moving around. Corporal Beckman grabbed the seatbelt and an unknown person placed the seatbelt onto Holguin. The seatbelt was not secured tightly over Holguin's chest and there was plenty of room underneath the buckle. At this point, Holguin stopped moving. Holguin's head fell to one side. The gurney was pushed away and toward the awaiting ambulance. Within 30 seconds Corporal Beckman heard someone say they should start chest compressions and that Holguin might have been in full arrest.¹⁷ Holguin was loaded into the back of the ambulance.

Corporal Beckman said during the encounter with Holguin, he did not deliver any strikes and he did not see the other officers deliver any strikes. Corporal Beckman also said he did not use his taser nor did he see anyone else use a taser against Holguin.

¹⁶ Because Corporal Beckman was an emergency medical technician years ago, he was familiar with the use of gurneys.

¹⁷ Corporal Beckman understood full arrest to mean no breathing or pulse.

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On November 5, 2018, at approximately 1:23 in the morning, Sergeant **Ted Olden** was interviewed by Detectives Arturo Alvarado and Walter Peraza of the San Bernardino County Sheriff's Department.

Sergeant Olden was employed by the Chino Police Department as a police officer sergeant. Sergeant Olden has been employed by the Chino Police Department for 16 years as a police officer.

On November 4, 2018, Sergeant Olden was on duty working in his office on administrative duties when at approximately 5:57 p.m., he heard a call come out over the radio indicating unknown trouble was taking place at the Black Bear Diner on Mountain Avenue.¹⁸

Sergeant Olden said Officer Gregory was the first officer on the scene. Pretty quickly thereafter, Officer Gregory called for the fire department to respond saying the subject was under the influence. Corporal Beckman and Officer Asbee responded to the diner after Officer Gregory.

Sergeant Olden drove to the scene and as he entered the diner, he could see the tops of the officers' heads on the other side of a counter. Sergeant Olden walked around to the other side of the counter and saw a subject, later identified as Holguin, lying down on his stomach in the walkway between the counter and the area where the meals come over from the cooks to the restaurant staff for serving. Holguin's hands were cuffed, and he was arched up with his forearms directly underneath his chest, his body moved back and forth, as he turned his head sideways.¹⁹

Sergeant Olden saw the officers had Holguin under control. Officer Asbee had control of Holguin's legs. Corporal Beckman was off to Holguin's left and held one of Holguin's arms trying to keep him from rolling around. Officer Gregory was around to the front of Holguin trying to control Holguin's right arm. The officers were using controlling force to keep Holguin from hurting himself or the officers. Officer Gregory and Corporal Beckman were spoke to Holguin in an effort to calm him, saying, "Calm down, calm down, we have paramedics coming." Sergeant Olden told the officers to be mindful of positional asphyxiation and ensure Holguin's airway was not restricted so he could breathe. Corporal Beckman acknowledged this.

Sergeant Olden believed Holguin was experiencing excited delirium and he had probably ingested a large quantity of methamphetamine. It was clear to Sergeant Olden

¹⁸Sergeant Olden heard dispatch update over the radio that staff at the diner were physically holding down an unknown subject. After hearing this, Sergeant Olden directed dispatch to have the nearest patrol unit respond to the diner Code Three. Sergeant Olden did this because there were civilians actively holding someone down and he feared for the safety of the civilians and the subject who was being held down.

¹⁹ Sergeant Olden gave a detailed description of Holguin. That description was the same as the descriptions given by the other officers and witnesses.

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Holguin needed medical attention and he believed the other officers knew this as well as they only used controlling force while they waited for medical aid to arrive. The officers did not use any strikes, punches or kicks or anything of that nature, but only tried to control Holguin's movements.

Sergeant Olden told Corporal Beckman he was going to go outside and advise the fire department about what was going on. As he walked outside, Sergeant Olden got on the radio to dispatch to confirm fire was en route. Within five seconds, Sergeant Olden heard the sirens. When the fire department arrived, he met with the fire captain. Sergeant Olden advised the fire captain they had a subject inside the diner exhibiting signs and symptoms of being under the influence. They decided to bring Holguin outside as it would be easier to get him onto a gurney outside. Sergeant Olden went back into the diner and told the officers they were going to carry Holguin outside. Together, Sergeant Olden, Corporal Beckman, and Officer Gregory carried Holguin outside. As they carried Holguin outside, Holguin continued fighting, screaming, and making non-sensical statements. They set Holguin down onto a grassy area in front of the diner. The ambulance, which had the gurney, had not yet arrived, and didn't arrive for another two to three minutes. The fire personnel started to attend to Holguin. Corporal Beckman and Officer Gregory still controlled Holguin "somewhat." Holguin's arms were cuffed and out to his front. It appeared that Holguin was going to cooperate and that everything was going to be fine at that point.

Sergeant Olden stepped away briefly and when he walked back, he saw Holguin's demeanor had changed and he became increasingly more aggressive again. Holguin looked like he was trying to roll over and get up while the firefighters continued trying to tend to him. The officers had a difficult time maintaining control so Sergeant Olden asked one of the firefighters if he could help the officers control one of Holguin's legs to stop him from kicking. Sergeant Olden saw another firefighter had latex gloves so he asked him if he could have them. The firefighter gave the gloves to Sergeant Olden and as soon as he got them over his fingertips, Holguin started to roll over and rear back as if he was going to bite Corporal Beckman. Sergeant Olden held Holguin's head and arms so he could not turn and bite Corporal Beckman. As he did so, he told Holguin to stop. Holguin was now lying partially on his right side with his hands out in front of his body. Sergeant Olden was able to push down on Holguin's hands while he held onto the left side of Holguin's head near his ear and held him down so he could not bite. Holguin's head was turned to the right, so the right side of his face was on the grass.

Sergeant Olden realized Holguin was not going to stop resisting and they would need to get him onto the gurney for his safety so the paramedics could help him. As soon as the ambulance arrived and they had the gurney ready for Holguin, Sergeant Olden told everyone to roll Holguin over onto his back and then move him to the gurney. As they moved Holguin to the gurney, he continued to fight. They laid Holguin down on the gurney on his back. The fire personnel assisted with holding down Holguin's legs while the paramedics put soft restraints on his legs and a lap belt around his waist. At that

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point, Sergeant Olden said it was okay to remove the handcuffs from Holguin's wrists. Within a few moments, Holguin stopped fighting. Sergeant Olden asked a firefighter who was standing near Holguin's head if Holguin was still breathing. The firefighter answered in the affirmative. The paramedics then wheeled Holguin off and into the ambulance which was about 20 yards away.

Sergeant Olden directed Officer Gregory to follow the ambulance to the hospital. As Officer Gregory positioned his patrol unit so he could follow the ambulance to the hospital, the restaurant manager approached Sergeant Olden and started asking questions and saying thank you. As Sergeant Olden spoke to the manager, the fire captain called for his attention. Sergeant Olden walked away from the manager and spoke to the fire captain who told him Holguin had gone into full arrest. The ambulance was still there; the paramedics were giving Holguin chest compressions inside the back of the ambulance.

During their encounter with Holguin, the officers recognized he needed medical attention and their focus was to get him to the ambulance and to the hospital. They brought Holguin to the grass because it was soft and the whole point was to safely get him onto the gurney for transport.

STATEMENTS BY CIVILIAN WITNESSES²⁰

Restaurant Patrons

Detectives interviewed 11 restaurant patrons regarding the incident involving Holguin. All the patrons described Holguin as being erratic, psychotic, incoherent, drunk or on drugs, sweating, yelling, cursing, and stumbling. Some of the restaurant patrons, but not all, heard Holguin say he was being chased by someone with a gun. In addition, all the patrons believed the officers handled the situation professionally and none of the officers used unreasonable force while dealing with Holguin.

On November 26, 2018, at approximately 2:30 in the afternoon, **Witness #1** was interviewed by Detective Sousa of the San Bernardino County Sheriff's Department.

Witness #1 was a customer at Black Bear Diner during the incident involving Holguin on November 4, 2018. Witness #1 was seated near the front door while he ate at the diner with his girlfriend.

While sitting in the diner, Witness #1 was able to see outside toward the freeway and the entry door to the diner. Witness #1 saw a male walk from the freeway onramp and into the diner. The male was sweaty, was stumbling, and was screaming when he entered the restaurant. The male said he was being chased by someone with a gun.

²⁰ All reports of civilian statements made were reviewed, though not all are summarized here.

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Witness #1 did not see anyone chasing this male before he entered the diner. The male stood near the cash register and became more irritated when he was contacted by an employee. The male entered the area behind the countertop bar. Two employees tried to stop him, which caused them all to go to the ground. Witness #1 lost sight of the employees and the male, but he heard the struggle. A cook, who Witness #1 believed weighed 230 pounds, helped the other employees and was able to control the male until the police arrived.

Witness #1 saw the first officer arrive and try to control the male with his body weight. The officer had a difficult time controlling the male. The officer tried to calm the male down by talking to him. Witness #1 could not remember what exactly was said. The male tried to get up while the officer used his radio to call for help. Witness #1 did not see any punches or force used to control the male. Five additional officers arrived, and they were able to handcuff the male to the front. Two officers carried the male outside by his arms and legs. The male was then "put down easy" on the ground outside the diner where he was treated by paramedics. Witness #1 believed the male passed out while he was outside.

On November 29, 2018, at approximately 2:43 in the afternoon, **Witness #2** and **Witness #3** were interviewed by Detective Sousa of the San Bernardino County Sheriff's Department.

Witness #2 and Witness #3 were at the Black Bear Diner during the incident involving Holguin on November 4, 2018. Witness #2 was seated in the dining room while she ate with her husband, Witness #3. Witness #2 faced the entry door and saw a male enter the restaurant shouting and yelling. Witness #2 was unable to understand what he said. A female employee approached the male and talked to him. The male shouted louder which caused other employees to come to assist. The male pushed an employee several times before he entered the employee work area behind the countertop bar. Cooks from the kitchen came out to assist the other employees as they held the male down on the ground. Four to five employees wrestled the male to the ground, out of Witness #2's view.

The first police officer arrived, and the male was handcuffed. The second police officer to arrive was a female and she assisted the first officer. As additional officers arrived, the employees backed away. Witness #2 was not able to see what was happening behind the countertop.

Witness #2 saw five to six officers carry the male face down by his arms and legs outside. The officers were "very professional, very gentle when they put him down" on the ground. The officers stayed with the male until the paramedics arrived. The officers continued to struggle with the male outside as he moved around and attempted to push himself up. Witness #2 said the male "was putting up an extreme fight." The male was put onto a

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stretcher and strapped down and then into an ambulance. Witness #2 said everyone was very professional with the male.

Witness #3 heard the interview Detective Sousa had with his wife, Witness #2, and agreed with everything she had said. Witness #3 added, he approached the countertop to assist the employees after they wrestled the male down to the ground. Witness #3 saw each employee controlled the male by holding an arm or a leg. One of the employees straddled the male. The employees did not need his assistance. Witness #3 heard the male yell and scream but did not pay attention to what he said. Witness #3 did not see anyone punch the male, but they had every right to do so based upon the male's erratic behavior. Witness #3 asked Detective Sousa if they knew if the male "was on something?" Witness #3 said not one person hit the male.

On November 29, 2018, at approximately 3:30 in the afternoon, **Witness #4** was interviewed by Detective Sousa of the San Bernardino County Sheriff's Department.

Witness #4 was a customer at the Black Bear Diner during the incident on November 4, 2018. At approximately 6:00 p.m., Witness #4, his wife and son approached the front door of Black Bear Diner when Witness #4 heard the chain link fence, nearby at the freeway onramp, rattle. The freeway was located just north of the restaurant.

Witness #4 saw a Hispanic male walk from the area of the freeway onramp toward the restaurant. Witness #4 did not see the male come from the actual freeway. The male was sweaty, acting paranoid, and was talking loudly, saying, "They're after me. They're going to kill me." Witness #4 was holding the door for his wife and son. The Hispanic male went through the door he had held open for his wife and son and went into the restaurant.

Witness #4 and his family entered the restaurant. Witness #4 and his wife sat down in the lobby as they waited for a table. The male continued to talk loudly and created a disturbance. The male walked toward the cash register and held onto it to balance himself, almost knocking the cash register over. The male then walked toward the kitchen and several employees attempted to stop him. The cooks came from the kitchen to assist. Three to four employees wrestled with the male who was going down and then they all went down to the floor. Witness #4 looked over the countertop and saw the employees holding the male's arms and legs.

The first police officer arrived, knelt down next to the male, and tried to calm him down. Witness #4 heard the officer say, "It's okay, it's going to be okay." Additional officers arrived to help. Witness #4 did not see any officers or employees punch the male. Witness #4 heard one of the police officers say, "Let's get him out." Three or four officers carried the male out of the restaurant by holding the male's arms and legs. Witness #4

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thought the male was facing up as he was carried outside. Witness #4 did not pay attention to what occurred outside.

Restaurant Employees

Detectives interviewed 11 restaurant employees within hours of the incident. Several of the employees said after Holguin entered the restaurant, they were afraid for their safety as well as the safety of the restaurant patrons. All the employees described Holguin's actions as disruptive. Each of the employees said Holguin was yelling, cursing, sweating profusely, stumbling, and throwing his arms around erratically. One of the restaurant servers said all the men in the dining room stood up in response to Holguin's disruptive behavior. Two of the employees saw Holguin walking on foot near the freeway on their way to work just prior to his entry into the diner. Some of the employees heard Holguin say he was being chased by someone with a gun and he had a gun. Holguin's talk of a gun was not relayed to the 911 operator, nor was this information relayed to the responding officers. The employees all believed the officers handled the situation with Holguin appropriately; none of the employees saw the officers use an unreasonable amount of force with Holguin.

On November 4, 2018, at approximately 10:49 in the evening, **Witness #5** was interviewed by Detective A. Gibilterra of the San Bernardino County Sheriff's Department.

Witness #5 was working as the general manager at Black Bear Diner during the incident involving Jaime Holguin on November 4, 2018. Witness #5 was responsible for the operation of the diner and began his shift early in the morning.

At approximately 6:30 p.m., Witness #5 was standing outside the business when he heard the restaurant host call out his name. Witness #5 went inside and noticed a male subject leaning over the cash register, flailing his arms, and "yelling gibberish." The male was later identified as Jaime Holguin. Two restaurant employees tried to corral Holguin to a specific area but did not physically touch him. Through the gibberish, Witness #5 heard Holguin say he had a gun and was going to kill some people.

Two of the restaurant cooks came over to help and kept Holguin from accessing the counter area. Another employee was on the phone calling 911 and handed the phone to Witness #5. While Witness #5 was on the phone with 911, Holguin tried to go back into the kitchen area. Witness #5 and the other employees blocked Holguin from going back into the kitchen. An employee tried to diffuse the situation by talking to Holguin and calming him down. Holguin appeared to calm down.

Witness #5 placed the phone down while still connected to the 911 dispatcher and called out for another employee to come help them. Witness #5 told the employees to step back out of Holguin's reach. When they did so, Holguin took this opportunity to

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move and run south down the aisle behind the counter; an employee blocked Holguin from running into the dining room. Holguin then turned to go down another aisle, toward the kitchen and an employee blocked his path again. They did not want Holguin to enter the kitchen as he would have access to knives and other dangerous instruments.

Holguin then turned around and ran down the opposite side of the service counter. After Holguin turned around, he lost his balance and stumbled to the ground. Holguin's body did not forcibly strike the ground, the counter, or any object. Once Holguin fell to the ground, three employees tried to hold him down on the ground.

When the first police officer, Officer Gregory, arrived, Witness #5 told him he needed him inside immediately. Officer Gregory went to where Holguin was lying on the ground and took over for the employees. Officer Gregory talked to Holguin and it seemed to calm Holguin down. Witness #5 said Officer Gregory casually talked to Holguin, diffusing the situation and Officer Gregory did a remarkable job. Officer Gregory repeatedly assured Holguin, telling him he was going to be alright and he continued to ask Holguin if he was okay.

Within one to one and a half minutes, three to four additional Chino Police officers arrived and assisted Officer Gregory. Holguin was handcuffed and the officers kept him restrained. In Witness #5's opinion, Holguin was not restrained in a forceful way; the officers restrained him to prevent injuries to themselves or to Holguin. The officers did not slam Holguin, nor did the officers use any vulgarity while speaking with Holguin. Even though Holguin was lying down on the ground, Holguin was not put in any compromised position which could have caused him injury.

Three Chino Police officers carried Holguin outside and laid him onto the grassy area in front of the diner. Witness #5 stood on the sidewalk approximately 15-20 feet away and watched. While on the grass, the officers continued to restrain Holguin because he was still moving around.

The AMR ambulance arrived, and the personnel pulled out the gurney from the ambulance. Witness #5 knew Holguin was still conscious because he was "blurting out vulgarities." The officers and the AMR personnel lifted Holguin onto the gurney and began to restrain him. Holguin was still "very much conscious" at that time as Witness #5 saw him moving on the gurney. Witness #5 did not see the officers, or the AMR personnel do anything violent or inappropriate while Holguin was being restrained on the gurney. AMR loaded Holguin into the ambulance; the ambulance remained parked there for a few minutes before driving away with its lights and sirens activated.

Witness #5 asked personnel from the Chino Valley Fire Department who were on scene to check on two of the Black Bear Diner employees who were injured holding Holguin down. Once the fire department left, Witness #5 re-opened the restaurant. A short time later, a Chino Police officer came inside and told Witness #5 Holguin had passed away.

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The officer informed him the diner would have to be closed during the investigation. Witness #5 immediately complied and closed the restaurant.

On November 4, 2018, at approximately 9:39 in the evening, **Witness #6** was interviewed by Detective A. Alvarado of the San Bernardino County Sheriff's Department.

Witness #6 was employed as a server at the Black Bear Diner and was working during the incident involving Holguin on November 4, 2018. At approximately 6:30 p.m., Witness #6 was at the rear dining room area when she noticed a subject, later identified as Holguin, enter the restaurant, "acting hysterical." Holguin perspired profusely as he paced in front of the cash register, throwing his arms and screaming, "Call 911, call 911! They're after me!" The manager, Witness #5, had Holguin sit down on a bench in the lobby, but Holguin yelled, "Not in front of the window! Not in front of the window! They're going to get me!" Holguin got up and the cooks then came out to the lobby.

Witness #6 called 911 but hung up before speaking to the dispatcher because Holguin "went wild again." The 911 operator called back to inquire about her call. Witness #6 told the operator about Holguin and requested emergency assistance.

Holguin tried to walk into the dining room. Two of the restaurant cooks came out of the kitchen and restrained Holguin. These two employees, aided by two other employees, kept Holguin from going toward the customers by holding him down on the floor behind the service counter. Holguin grabbed and scratched one of the employee's arms. Witness #6 saw another employee's finger was cut by unknown means. Witness #6 did not see any employee strike Holguin. Witness #6 believed Holguin might have injured a customer had employees not intervened.

Approximately 10 minutes after Witness #6 called 911, three Chino Police Department officers arrived. The restaurant employees released Holguin and he immediately attempted to stand up. Officers held Holguin down and handcuffed him to the rear²¹ without incident. Witness #6 did not see the officers strike Holguin. A fourth police officer entered the restaurant and assisted the other officers with carrying Holguin outside. Witness #6 did not follow the officers and did not see what occurred outside. Witness #6 resumed her duties and attended to diners. Witness #6 was aware the fire department personnel arrived but did not go outside to see them rendering medical aid.

On November 4, 2018, at approximately 10:36 in the evening, **Witness #7** was interviewed by Detective B. Arias of the San Bernardino County Sheriff's Department.

²¹ Body-cam video clearly shows Holguin was handcuffed to the front.

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Witness #7 was employed as a supervisor at Black Bear Diner and worked during the incident on November 4, 2018. Sometime in the afternoon, Witness #7 was not certain of the time, Witness #7 stood behind the service counter in the expo area²² when she saw a group of five regular customers enter the restaurant through the front entrance. Witness #7 noticed a Hispanic male adult, later identified as Holguin, enter the restaurant behind the group. Holguin was out of breath and appeared to be paranoid and “tweaking on a good one.” The group of customers moved to the side of restaurant entrance and Holguin yelled, “They are following me! They have a gun; I have a gun!”

Holguin walked over to the cash register and leaned on it. Witness #7 told Holguin to calm down. Holguin repeated the statement about a gun. Witness #7 was scared and was afraid Holguin was going to hurt one of the employees or customers. Witness #7 called for fellow employees to help. Holguin was falling over the counter and pushing on the cash register.

As the other employees came up to assist, Holguin walked over to a bench in the waiting area of the diner and sat down. Holguin began to bang the back of his head against the wall. Holguin kept saying someone was following him. Holguin also said, “Robert, don’t put me by the window!” Holguin stood up and walked toward the dining area where the customers were eating. Witness #7 asked Holguin to leave the restaurant, but he did not listen. An employee stood in between Holguin and the dining area. Holguin then turned and walked toward the expo area while yelling. An employee told Holguin to calm down and told him no one was chasing him. Holguin tried to walk to the back of the restaurant, where they kept the knives for kitchen. Witness #7 turned away and asked a co-worker to call the police. Witness #7 turned back to Holguin and saw him on the floor in between the expo area and the bar seating. Three employees held Holguin down on the floor. One of them held one of Holguin’s hands, while another employee held Holguin’s other hand, and another held Holguin’s feet. Holguin knocked over water jugs under the bar. Witness #7 and an unknown customer removed the knives and forks from the top of the bar seating. Witness #7 grabbed a cell phone from the co-worker who was on the phone with the police and told the dispatcher a “crazy person was going to harm someone.”

A male Chino Police Department officer came into the restaurant and ran over to Holguin. As the employees let go of Holguin, Holguin resisted the officer by swinging his arms and yelling. The officer told Holguin, “Calm down, sir. You’re okay.” A female police officer came in and helped control Holguin. Witness #7 did not see the officers hit Holguin. Witness #7 walked to the back of the restaurant and did not see what happened between Holguin and the officers after that. After Holguin was taken out of the restaurant, Witness #7 returned to the front of the restaurant and looked out the window. Witness #7 saw Holguin lying on a gurney.

²² Witness #7 described the expo area as the area where the cooks deliver the food to the servers. The area is adjacent to the cash register and a bar seating area.

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On November 4, 2018, at approximately 11:10 in the evening, **Witness #8** was interviewed by Detective B. Arias of the San Bernardino County Sheriff's Department.

Witness #8 was employed as a cook/dishwasher at Black Bear Diner and was working during the incident on November 4, 2018. Sometime in the afternoon, Witness #8's manager, Witness #7, came into the kitchen. Witness #7 appeared scared and yelled, "Witness #8, come right now!" Witness #8 heard the urgency in her voice and followed her. Witness #7 walked toward the front of the restaurant. Witness #8 saw a male Hispanic adult, later identified as Holguin, "leaning against the cash register like if it wasn't there, he'd fall." Holguin was "sweating bullets," was paranoid, and was "top-heavy, like he could fall at any moment." Holguin yelled, "I have a gun!"

Witness #8's co-worker tried to calm Holguin down by talking to him. Holguin then walked over to a bench in the waiting area and sat down. Holguin began to hit the back of his head against a wall. Holguin hit his head three times. Holguin then stood up and walked over toward the dining room. Witness #8 stood in between Holguin and the dining room because he did not want Holguin to hurt a customer. Witness #8 placed his right arm across his own chest and held it toward Holguin. Holguin walked toward Witness #8 but then turned toward the kitchen. Witness #8 did not want Holguin to enter the kitchen because the restaurant kept knives and other sharp items in there. Witness #8 grabbed Holguin's arms and told him he could not walk into the kitchen. Holguin was "slippery and very strong." Witness #8 was able to control Holguin and prevented him from entering the kitchen. Holguin kept yelling, "They have a gun!" Witness #8 did not know who called the police, but he knew they were on their way.

Holguin repeatedly tried to walk into the kitchen area. Witness #8 did not know how Holguin ended up on the floor, but he held him down by pushing on his torso and arms. Another co-worker assisted and held onto Holguin's left arm. Holguin kicked his legs and knocked over buckets of water. A third co-worker grabbed onto Holguin's legs and held them down. Witness #8 was afraid Holguin was going to hurt someone and felt it was his duty as a human being to help.

A male police officer came into the restaurant and ran over toward Witness #8. Witness #8 slowly got off Holguin and let the officer take control. Holguin continued to yell. Witness #8 was exhausted and out of breath from trying to control Holguin. Witness #8 walked back to the kitchen and did not see what happened after that. Witness #8 suffered some scrapes and scratches to his right forearm. Describing Holguin, Witness #8 said it was as if "he had been up for days," and Holguin smelled bad.

On November 4, 2018, at approximately 9:40 in the evening, **Witness #9** was interviewed by Detective James Williams of the San Bernardino County Sheriff's Department.

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Witness #9 was employed as a cook at Black Bear Diner and worked during the incident involving November 4, 2018. At an unknown time, Witness #9 was in the kitchen when Witness #7 entered and asked for the manager, Witness #5. Witness #9 told Witness #7 that Witness #5 was not there. Witness #7 appeared concerned and agitated. Witness #7 told the employees in the kitchen there was an incident in the front lobby, and she required their assistance. Witness #9 and Witness #8 came out of the kitchen to assist.

When Witness #9 and Witness #8 entered the lobby, they saw a male, later identified as Holguin, next to a cash register. Holguin said someone was outside, had a gun and was trying to kill him. Witness #9 heard Holguin say, "Robert, don't do this to me," and it appeared Holguin was referring to someone outside as Holguin pointed and looked outside. Holguin told Witness #9 that Robert was outside with a gun. Witness #9 told Holguin to leave but Holguin did not want to leave and would not go outside. Witness #9 then told Holguin to sit down and to calm down and they would call for help. Holguin kept repeating there were people trying to kill him. Holguin also said he was having a medical emergency and he needed help right away.

Holguin suddenly jumped off the bench and ran toward the kitchen. Witness #9 was concerned because there were several items in the kitchen that could be used as weapons, including knives, forks, plates, and coffee pots.²³ They were able to stop Holguin and held him down on the floor. Holguin was facing up. It was difficult to restrain Holguin; Holguin appeared to "have super-powers;" "his strength was definitely altered." Holguin didn't appear to feel any pain. Holguin struggled and banged his head on the ground as they held him down. Witness #9 told him to stop because he was hurting himself. Witness #9 said if they had not stopped Holguin, he did not know what would have happened.

The first police officer arrived. The officer had difficulty restraining Holguin by himself. The officer had Holguin's hands and wasn't putting any force on him. The officer talked to Holguin and told him he needed to let him put handcuffs on him. The officer was able to put one handcuff on Holguin but Witness #9 had to help the officer put the second handcuff on Holguin. Holguin kept banging his head on the floor, even when the officer was there. The police officer told Holguin to calm down and to stop resisting several times.

The officer didn't really apply pressure; he just held onto Holguin's hands. Witness #9 held onto Holguin's legs. Witness #9 helped the officer until the second officer arrived and then she helped him. Witness #9 then went to the back to wash his hands and went back to work. Witness #9 did not see the officers take Holguin outside, nor did he see Holguin being treated by medical personnel outside.

²³ Witness #9 believed Holguin was altered and may have been under the influence of drugs. Holguin was "acting reckless" and his "hands were flying everywhere." Witness #9 felt that the way Holguin was acting was not safe. Holguin was talking about weapons and Witness #9 believed he was a "danger to everyone."

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STATEMENTS BY FIRE DEPARTMENT PERSONNEL²⁴

On November 4, 2018, at approximately 10:07 p.m., **Witness #10** was interviewed by Detective N. Sousa of the San Bernardino County Sheriff's Department.

Witness #10 was employed by the Chino Valley Fire District as a firefighter paramedic. On November 4, 2018, Witness #10 was on duty. On this day, around dinner time, Witness #10 and other members of the fire crew were dispatched to Black Bear Diner at 12325 Mountain Avenue in the city of Chino. The call indicated Chino Police officers were on scene at the diner with an intoxicated subject.

Upon arriving at the diner, Witness #10 saw an unknown firefighter speaking with an officer from the Chino Police Department. The Chino Police officer advised the firefighters they would bring the subject, later identified as Holguin, out of the restaurant.

Witness #10 saw the police officers carry Holguin outside. Witness #10 believed one officer carried Holguin by his right arm, another carried him by his left arm. Witness #10 was unsure if one or two officers carried Holguin's feet. Holguin was facing the ground when he was carried outside. The officers placed Holguin down on the ground in a prone position. Witness #10 believed Holguin was handcuffed to the front. Witness #10 asked Holguin personal information, but Holguin never provided his name. Holguin lifted his head and looked around as he screamed and yelled unknown words. Holguin's actions led Witness #10 to believe Holguin was intoxicated. An unknown Chino Police officer told Witness #10 Holguin had admitted to using methamphetamine. Witness #10 tried to put a blood pressure cuff on Holguin's right bicep, but he was unable to get a reading due to Holguin's erratic behavior and movements. Witness #10 placed a pulse oximeter on one of Holguin's fingers to attempt to measure the oxygen in his bloodstream. Holguin struggled to get up by placing his hands on the ground and pushing himself up. Witness #10 put his hand on Holguin's shoulders to keep him from turning around. Unknown Chino Police officers held Holguin down with their hands. Witness #10 believed one officer controlled Holguin's upper body while another controlled Holguin's legs. Holguin continued to lift his head, look around, and yell. Witness #10 did not see police officers apply force to Holguin.

Chino Police Sergeant Olden arrived and assisted in holding Holguin on the ground to prevent him from getting up. Witness #10 thought they might need a spit mask for Holguin due to his behavior. Witness #10 asked Sergeant Olden if he would like a spit mask. Sergeant Olden said they did not need one. Witness #10 heard Sergeant Olden say, "Be careful of his airway. Let's make sure we are not impeding his airway." Holguin's airway was not impeded at any time.

²⁴ All reports concerning fire department personnel statements were reviewed, though not all are summarized here.

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Witness #10 and the police officers waited approximately five minutes for the AMR ambulance to arrive. A gurney was brought to where Holguin was being treated. Witness #10 and the officers rolled Holguin over onto his back, picked him up, and placed him on the gurney. Holguin thrashed his body around during this transition, making it difficult to control him. Witness #10 secured Holguin's right leg with a soft restraint and assisted with restraining Holguin's left leg. Witness #10 was not sure who secured Holguin's arms with the soft restraints.

Holguin was taken to the ambulance when Witness #10 noticed Holguin appeared to be unresponsive and not breathing. Witness #10 checked Holguin's pulse but was unable to find one. Witness #10 told the AMR personnel to grab a resuscitation airbag and begin CPR while he placed defibrillator pads on Holguin's chest. Witness #10 began chest compressions at a rate of 120-180 beats per minute. Firefighter paramedic Witness #11 called Chino Valley Medical Center and advised them Holguin was being transported. Witness #10, Witness #11, and an unknown AMR paramedic began advanced cardiac life support²⁵ on Holguin as he was transported to the hospital. They arrived at the hospital within approximately three minutes. Witness #10 continued CPR into the emergency room and then into the trauma room until hospital staff took control.

INCIDENT AUDIO AND VIDEO

911 CALLS

Sunday, November 4, 2018 at 5:39 p.m.: A male caller advised dispatch there was a male party wearing dark clothing, walking in a dark area in traffic on the eastbound Interstate 60 freeway, between Euclid and Mountain. The male caller further advised, the male "looks like he's drugged out and wants to jump in front of vehicles."

Sunday, November 4, 2018 at 5:56 p.m.: A call was placed from Black Bear Diner to 911. There was noise at the beginning of the call until ultimately a female voice was heard asking, "Can we have paramedics here, please?" More noise was then heard, before a dial tone, followed by a phone which rang. The dispatcher then said, "Just a second, okay. I'm getting them on the line." A male voice told the dispatcher, "This guy's screaming and yelling." There was yelling in the background which made it difficult to understand the male caller.

As the dispatcher tried to obtain more details, the male on the other end of the call told her he needed the police and the subject was attempting to strike staff members. When the dispatcher asked if the subject had any weapons, the male said he did not know but the subject was violent.

²⁵ Witness #10 was not able to discuss the advanced cardiac life support care due to the Health Insurance Portability and Accountability Act, HIPPA.

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When the dispatcher asked if the subject was there with anyone else, the caller told her to hold the line. Yelling could be heard in the background. Several seconds later, “No, no, no, no!” was heard, followed by the male caller saying, “Yeah, he’s going towards my guests. I’m sorry, I’m sorry.” A loud male voice could be heard yelling unintelligibly, followed by a female screaming, and then a lot of yelling.

Several seconds later, the male caller said, “Yeah, he’s going after my guests. I’m sorry.” The dispatcher started to ask the caller a question, but he interrupted her and said, “Ma’am, I don’t have time. He’s going after my guests.” The dispatcher asked him to put someone on the phone who could talk to her. A female got on the call and asked the dispatcher, “Are they on their way? They need to hurry.” The dispatcher replied, “Listen to me. Calm down.” The female responded, “Okay, because we can’t control him.” The dispatcher continued trying to calm her and told her not to hang up. The call ended once the officers arrived on scene.

DISPATCH RECORDING SUMMARY

The dispatch operator advised officers of a call for service regarding a Penal Code section 415²⁶ subject and advised officers the subject could be heard in the background during the call. Dispatch gave the subject’s description as a Hispanic male in his 40’s, black shirt, green jeans. Officer Gregory responded to the scene and shortly thereafter requested dispatch to, “Roll fire for a possibly UTI.” Officers Asbee, Gregory, and Sergeant Olden also responded to the scene. Shortly after arriving on scene, Sergeant Olden contacted dispatch to confirm the fire department was en route.

BODY-WORN CAMERA VIDEO SUMMARIES²⁷

OFFICER GREGORY

Officer Gregory’s body-worn camera video is 37 minutes and 37 seconds long. The video was activated while he drove to Black Bear Diner. Officer Gregory parked next to the curb in front of the diner, got out of his patrol unit, and ran to the entry of the diner where the general manager held the door open for him. Officer Gregory ran inside. Loud yelling could be heard, but the words were unintelligible.

²⁶ Penal Code section 415, Disturbing the Peace: Fighting, Loud Noise, or Offensive Words.

²⁷ The officers herein were equipped with Axon Body-Worn Cameras. The camera system turns on when the operator activates the camera. When the camera is activated, the previous 30 seconds of video are included but without any audio. The body-worn camera recordings were reviewed in their entirety. The summaries of the body worn camera will only cover the events from the beginning through the point immediately after the incident under review. Officer Gregory, Officer Asbee, and Sergeant Olden’s body-worn camera videos were viewed in their entirety. All the videos recorded the same conduct. As such, only Officer Gregory’s video will be summarized herein. It should be noted, in Sergeant Olden’s body-cam video recording, Sergeant Olden can be heard telling Corporal Beckman to be mindful of positional asphyxiation. This cannot be heard in Officer Gregory’s body-cam video recording.

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Officer Gregory walked behind the front service counter and Holguin was seen lying on his back on the floor. Several employees were holding down Holguin. Holguin was yelling loudly, unintelligibly. Officer Gregory approached and knelt down close to Holguin's head. Officer Gregory told Holguin, "Hey, listen up, listen up. I need you to follow my commands or force may be used against you. Okay?" Holguin replied, "Okay." Holguin was in obvious distress. The employees who had been holding Holguin down let go and stepped back. Officer Gregory took a hold of Holguin's left hand and asked, "Do you understand? You have any weapons?" Holguin said something but it was unintelligible. Holguin was thrashing his body around, flailing his arms, and kicking his legs.²⁸ There were dinner plates and other restaurant supplies on the shelves near Holguin's arms and legs. An employee grabbed Holguin's right arm, assisting Officer Gregory. Officer Gregory calmly told Holguin, "Just a minute, just a minute. We will get this figured out. Relax, relax, relax, relax, relax, tranquillo, tranquillo, relax. Hey just relax a minute, just a minute, relax, relax, relax, relax."

Officer Gregory began controlling both of Holguin's hands. Holguin was slurring his words as he asked, "Who are you?" Officer Gregory said, "Hey relax, police officer, okay. Just relax for a minute, okay?" Officer Gregory helped Holguin sit up while saying, "Okay, sit up, sit up, sit up, sit up." Holguin screamed and laid back down onto the floor. Officer Gregory asked the nearby employees, "What's up with him? What's he doing?" An employee said, "He came in here acting up. He's saying someone is following him with a gun. But, there ain't no one out there. He is just paranoid." Officer Gregory briefly had hands on Holguin. Officer Gregory asked, Holguin, "Hey, hey, what's the matter? Hey, relax, relax, I need you to relax. Hey relax." Holguin said, "I can't get up." Officer Gregory told him, "Relax, relax." Officer Gregory was using a calm voice. Holguin said, "I can't breathe." Officer Gregory asked, "Okay, do you need paramedics?" Holguin replied, "Yes." As Holguin continued moving his body around quickly, he kicked napkins off a nearby shelf. Officer Gregory was trying to assist and control Holguin. He was the only officer present. Officer Gregory told Holguin, "Okay, okay, hey, I need you to stop moving. Okay?" Officer Gregory continued calmly telling Holguin to relax, repeatedly. Holguin rolled onto his right side and grabbed a nearby shelf. Officer Gregory said, "Hey, hey."

Officer Gregory held Holguin's hands, trying to control him. Officer Gregory said, "Hey, stop, stop." Holguin yelled unintelligibly. Holguin's continued yelling and thrashing was making it very difficult for Officer Gregory to control his movements. Holguin began to sit up and quickly reached toward the nearby dinner plates. An employee quickly grabbed the dinner plates, moving them out of Holguin's reach. Officer Gregory asked another employee, "Can you give me a hand, actually?" A male employee stepped forward to help and asked the officer, "Yeah, flip him over?" Officer Gregory said, "I'm

²⁸ During Officer Gregory's entire contact, Holguin continued to speak unintelligibly, roll around on the floor, moving from his back, to his sides, and to his stomach. Officer Gregory did not prevent Holguin from rolling his body around in this fashion.

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just going to cuff-- no; I'm going to cuff him to the front. The employee said, "Okay, alright."

Holguin rolled over to his left side while the male employee tried to help Officer Gregory by kneeling on Holguin's legs. Officer Gregory was kneeling on the floor next to Holguin and was attempting to control Holguin's hands. Holguin was yelling something unintelligible, but then the word, "Guys" was heard. Officer Gregory again told Holguin multiple times to relax. Holguin continued struggling and thrashing about on the floor. Officer Gregory continued telling Holguin to relax. Holguin said, "Help me guys." Officer Gregory replied to Holguin, "Hey, I need you to relax, bud."

Officer Gregory put a handcuff on Holguin's right hand. Before Officer Gregory could get Holguin's left hand into the handcuff, Holguin grabbed onto the handcuff with his left hand. The male employee tried to help Officer Gregory control Holguin's hands. Officer Gregory continued telling Holguin to relax as Holguin continued tightly holding onto the handcuff. Officer Gregory and the employee continued trying to get the handcuff from Holguin's grasp. As the struggle continued, Officer Gregory told Holguin to relax in English and in Spanish. The employee said, "I don't think he speaks Spanish." The employee and Officer Gregory finally succeeded in freeing the handcuff from Holguin's grip and together, they successfully handcuffed Holguin. Officer Gregory told Holguin, "Hey relax, bud. Relax." Officer Gregory then spoke into his mic and said, "24, can you roll fire for possibly UTI." Just over two minutes had elapsed since Officer Gregory arrived on scene.

Officer Gregory said, "Hey, sit up. Sit up. What's your name? What's your name?" Holguin was mumbling rapidly. Holguin then said what sounded like, "Fred." Officer Gregory said, "Fred? What's your name?" Holguin said something unintelligible. Holguin did not sit up, but instead continued lying on the floor, thrashing his body and flailing his arms and legs.

Officer Gregory was positioned on the floor near Holguin's upper body. Officer Gregory was not holding Holguin down. Officer Asbee could now be seen at Holguin's feet. Officer Asbee asked, "What's his deal?" Officer Gregory said, "I don't know. He's like UTI. They were fighting with him." Holguin said something unintelligible, followed by, "Just walking in here," and then more words which were unintelligible. Officer Gregory said, "They let him go when I got here, and he's just been flipping like." Holguin continued yelling. Officer Asbee asked Officer Gregory why Holguin was handcuffed to the front of his body and Officer Gregory explained he was unable to handcuff him to the rear. Officer Asbee said, "Beck, Beckman is almost here. We'll wait." Officer Gregory said, "You want to take him outside?" Officer Asbee said, "Ah, let's wait for Beckman." Holguin continued lying on the floor, on his back and yelled, "Ah, take me outside!" Officer Gregory said, "Just relax." Holguin replied, "No!" Officer Gregory said, "Hey, hey, we are going to take you outside in one second, okay?" "Let go of my arm. Let go of my arm."

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Holguin had both of his arms outstretched to his left side. Officer Gregory asked him, "What's going on, dude?" Holguin mumbled and grunted. Officer Gregory said, "Relax, dude." Holguin yelled, "No!" Officer Gregory asked, "Do you have ID on you?" Holguin's response was unintelligible. Officer Gregory asked, "No?" Holguin again said something unintelligible. Officer Gregory said, "Hey, hey, we're going to walk you outside, buddy. We're going to walk you outside. Okay?" Holguin replied but his words were unintelligible. Officer Gregory said, "You said your name's Fred?" Holguin's answer was unintelligible.

Officer Gregory was kneeling down beside Holguin with his hand on Holguin's right upper arm as Holguin laid on his left side. It is apparent Officer Gregory was holding Holguin gently, as if to keep Holguin from hurting himself. Officer Gregory was not applying any weight or pressure to Holguin. Corporal Beckman could be seen at this point on the same side of the counter as Officers Gregory and Asbee. Officer Asbee continued holding Holguin's legs while he continued to kick them around.

Holguin rolled onto his stomach and lifted his chest up from the ground, resting on his elbows while hanging his head down. Officer Gregory was kneeling next to Holguin and had his right hand resting on Holguin's back. Holguin said, "I can't breathe!" Officer Gregory removed his right hand from Holguin's back and said, "Okay." Holguin still had his chest up off the ground and was moving around, struggling with the officers. Officer Gregory said, "Just a minute. Just a minute."

Corporal Beckman stepped over Holguin and positioned himself down near Holguin's head. Holguin was still struggling and holding his head up and moving it around. An unknown male voice told Holguin to relax. Holguin began yelling. Officer Gregory said, "Hey, relax bud. Relax." Holguin was moving his head up and down, toward the floor. Corporal Beckman had his hand on the floor between Holguin's head and the floor in an apparent attempt to keep Holguin from slamming his head into the floor. Officer Asbee said, "I think he's like extremely UTI." Corporal Beckman said, "He's probably need to get checked out right?" Holguin continued shaking his head up and down toward the floor. Officers Gregory and Asbee both replied to Corporal Beckman, "Yeah." Officer Gregory said, "I already rolled fire." Corporal Beckman said, "So how about leave him as he is." Officer Gregory agreed. Corporal Beckman and Officer Gregory both held their hands on the floor beneath Holguin's face keeping him from hitting his head and face on the floor as Holguin continued moving his head forward and backward. Corporal Beckman put his right hand on Holguin's upper back but was not putting much pressure on Holguin because Holguin was still able to move his upper body around.

Officer Gregory patted Holguin on the back and said, "Just relax, buddy." Corporal Beckman said, "Stay down. You're alright." Officer Gregory asked if Holguin had ID. Holguin mumbled. A male voice said, "You're alright." Corporal Beckman grabbed a napkin and placed it between his hand and Holguin's upper back and then held his hand there. Holguin was lying on his stomach with his upper body raised up resting on his

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elbows. Corporal Beckman said, "Yeah, just have them bring in the gurney Sarge, when they get here." Holguin yelled, "Bah! Let me go, please! Daniel, Daniel! I need to puke." An unknown officer patted Holguin on the back. Holguin said, "Let go, God damn it!" An unknown male voice said, "You're okay. You're alright."

Officer Gregory asked, "Hey, is somebody else injured? Did he hit someone?" A nearby female employee responded, "Um, he just jumped on her. He already tried to come back here, but we stopped him before (unintelligible)." Officer Gregory told Holguin, "Just relax man." Corporal Beckman said, "Just relax, alright. You'll feel better." Holguin groaned, "I'm trying (unintelligible). Fucking (unintelligible)." Holguin then slurred, "Get off!" Officer Gregory told Holguin to relax and Corporal Beckman told Holguin, "We are going to get you some medical help." Holguin continued moving his head up and down, still lying on his stomach and raised up on his elbows. Holguin continued cursing and saying other words which were not understandable.

Officer Gregory took Officer Asbee's place holding Holguin's legs so she could go interview employees to see if anyone was hurt. Holguin was positioned on his stomach, but he was turned over slightly to his right side. Holguin was missing one shoe. Corporal Beckman said he agreed Holguin needed medical attention.

Corporal Beckman had his right hand on Holguin's upper back; he was still not exerting much pressure onto Holguin's back. Holguin turned his body over further to his right side. Holguin was lifting his right leg up and down; no one was holding it down. Officer Gregory had one hand on Holguin's left leg. Corporal Beckman leaned down close to Holguin's head and asked, "Meth? Yes or no?" Holguin replied, "Yes." Corporal Beckman said, "Yes. How much? How much?" Holguin mumbled something. Corporal Beckman asked, "How much meth did you take? Huh?" After a slight pause, Corporal Beckman said, "A whole bunch? How long ago? How long ago?"

Officer Gregory asked Corporal Beckman if he wanted gloves. Holguin continued lying on his right side. Officer Gregory was positioned down by Holguin's feet. Officer Gregory started putting on latex gloves. Holguin said something unintelligible. Officer Gregory said, "Relax, dude." Corporal Beckman said, "Just relax. The paramedics are almost here. Okay?" Holguin replied, "Yeah."

Holguin turned onto his stomach. Corporal Beckman continued trying to put on latex gloves and was not touching Holguin. Corporal Beckman told Holguin, "You're alright. Relax. What's your name?" Holguin said something unintelligible. Officer Gregory said, "He said Fred." Corporal Beckman said, "What?" Corporal Beckman quickly checked Holguin's back pants' pockets; they were empty. Holguin said something unintelligible. Corporal Beckman said, "What? Jaime?" Corporal Beckman said, "Where's your driver's license, Jaime?" Holguin moaned. Corporal Beckman said, "Jaime, what?" Holguin grunted. Corporal Beckman said, "Tell me what's going on, huh?" Corporal

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Beckman said, "What is your first name?" Holguin replied but his words were unintelligible.

Officer Gregory, Corporal Beckman, and Sergeant Olden carried Holguin outside; once outside, the darkness made the images on the video difficult to see. Officer Gregory could be seen bending over and placing Holguin onto the grass. The fire department was on scene. Officers could be heard talking in the background. Corporal Beckman did a quick pat down search of Holguin while Holguin was lying on his stomach on the grass. Corporal Beckman said, "Stay there." Holguin replied, "No," followed by something unintelligible. Corporal Beckman again told Holguin to stay there and Holguin again replied, "No," and then continued speaking unintelligibly. Corporal Beckman had his left hand on Holguin's upper back as Holguin continued thrashing his body around on the grass, but Holguin did not attempt to get up.

A firefighter paramedic approached and asked, "What his name?" Officer Gregory replied, "We don't even know that yet. Jaime possibly." The paramedic said, "Hey, Jaime, we're the fire department. We're here to check you out." Holguin said, "Okay." Holguin was lying on his stomach, lifting his head up, and had his arms outstretched in front of him. The handcuffs were still on Holguin's wrists. Holguin was moving his head around as the paramedic explained they were there to help him. Holguin lifted his upper chest off the ground and rested on his elbows. The firefighter paramedic tried to put a pulse oximeter on Holguin's finger while telling him to relax and explaining what he was doing. Someone asked, "Jaime, what's your last name?" Holguin did not reply but was moving his head around while resting his upper body on his elbows. As Holguin moved his hands, the pulse oximeter could be seen on one of his fingers. Holguin rested his head briefly on his forearms.

Someone again asked Holguin for his last name. Holguin responded but his words were unintelligible. The question was asked again, and Holguin's response was still unintelligible. Someone told Holguin to relax. The paramedic continued to work on Holguin. Corporal Beckman was kneeling on the grass next to Holguin's left side. Holguin started saying, "No, no!" Officer Gregory turned and walked toward Holguin's feet and then bent down. Holguin could be seen on the ground, on his stomach with his hands outstretched in front of him. Corporal Beckman was still kneeling on the grass next to Holguin with his left hand on Holguin's upper back and his right hand on Holguin's belt. Corporal Beckman did not appear to be applying force or much pressure onto Holguin as Holguin was still able to lift his upper body up from the ground. Someone said, "We're here to help you, okay?" Holguin lifted his head higher and mumbled something. Holguin's right arm had a blood pressure cuff on it and the blood pressure machine was to Holguin's right. Holguin seemed to be calming down as someone said, "We're here to help you, alright."

Holguin started moving around and struggling again and grunted loudly. Holguin lifted his upper body up onto his right elbow. Someone told him, "Alright, stay still." Officer

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Gregory said, "Relax dude, relax. Don't kick me, man." Officer Gregory asked Holguin, "Hey, what's your last name, Jaime?" Holguin turned his head, looked to his right at Officer Gregory, and said something in a raspy whisper. What he said, was unclear. Someone said, "Jaime, they're trying to help you." Holguin yelled, "No, they're not!" Holguin then continued yelling, but the words were unintelligible. Holguin began to struggle more aggressively. The officers attempted to control Holguin's movements with their hands while telling him to relax.

Holguin was yelling and cursing and was obviously upset but most of his words were unintelligible. Someone said, "Stop grabbing it, Jaime." The officers continued telling Holguin to relax. Holguin continued moving and struggling and said, "You're fucking with the right arm!" The officers continued telling Holguin to relax and to "stop grabbing it." Not much could be seen at this point because Officer Gregory was positioned at Holguin's lower legs and all that could be seen was Corporal Beckman's back and the grass below.

As Officer Gregory turned to the right, Holguin could be seen on his stomach but rolled over slightly to his right side. A gurney could be seen rolled up next to Holguin. Corporal Beckman could be seen straddling Holguin's upper legs. Holguin continued to struggle, rolling his body side to side, under the weight of Corporal Beckman. Holguin began violently struggling and yelling, jerking his body around. Multiple voices could be heard speaking, but it is not clear what was being said. Someone said, "He's got a bunch of meth on board, so I don't know."

Holguin continued to struggle and yell; the officers continued telling him to relax. Officer Gregory was behind Corporal Beckman, who was still holding Holguin's upper legs. Officer Gregory was holding onto Holguin's lower legs. Someone said, "Alright, they're ready for him?" Holguin continued fighting.

The officers discussed and coordinated how to move Holguin onto the gurney. Holguin was then carried to and placed onto the gurney on his back. Holguin continued to grunt and yell. Officer Gregory and the firefighter were holding Holguin's lower legs as he continued to fight. Holguin said, "Please, God!" Someone said, "Hold on. Relax." Holguin began bending his knees; the firefighter and Officer Gregory tried to hold them down. Someone said to Holguin, "You're alright." Holguin violently struggled and yelled, "God, God, God!" The officers and paramedics continued to hold Holguin still while placing his legs and arms into the gurney's soft restraints. Holguin said, "Mike, Mike!" Someone asked where the seatbelt was. Officer Gregory fastened the seatbelt over Holguin's waist while still struggling with Holguin. Officer Gregory said, "Okay, I've got my cuff key out if you want. Which one you want? Which hand is it?" Someone said, "This one." Another person said, "There you go." Someone asked, "Okay, did somebody get the soft restraint ready over there?" Someone said, "Hang in there, bud."

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Officer Gregory moved away and began looking for his flashlight.²⁹ Once he found it, he turned back to the gurney. The firefighter paramedics and the officers were kneeling around Holguin. Someone said, "Let's go, let's go." Holguin was wheeled away on the gurney. Officer Gregory asked Sergeant Olden if he should follow the ambulance and Sergeant Olden answered in the affirmative.

Officer Gregory got into his patrol car, started the engine, drove forward and made a U-turn. Officer Gregory stopped his patrol unit in the street and waited. After a short time, Officer Gregory got out and walked over to Sergeant Olden where he learned Holguin had gone into full arrest. Holguin was seen in the back of the ambulance. Paramedics were giving chest compressions. The ambulance left the scene with lights and sirens. Officer Gregory followed the ambulance to the hospital where life saving measures were continued.

Black Bear Diner Surveillance Video Summary- Front Lobby³⁰

17:56:09 The video from the front lobby displayed Holguin forcing his way past an elderly couple and a child through the doorway and into the restaurant. The elderly couple and child stepped aside and looked at Holguin before they entered the restaurant behind him. Holguin walked into the lobby and turned a circle before heading left into the dining room and out of camera view.

18:01:19 Officer Gregory entered the restaurant and walked quickly through the lobby while a man with his back to the camera in the lobby pointed to the left. Over the course of several minutes, additional police officers arrived on scene.

18:09:57 The officers carried Holguin through the lobby outside the restaurant.

Black Bear Diner Surveillance Video Summary- Cash Register and Counter

18:01:20 Officer Gregory arrived and headed to the group of employees struggling on the ground behind the counter. As he got to the group, one of the employees stood up and backed away. Because of where the employee stood, the camera view of what the officer was doing was blocked. Another employee then stood up. Both the employees turned and walked away from the group on the ground, toward the camera and then out of view. Several employees and a customer watched the group on the ground, which included Officer Gregory. A third employee got up from the ground behind the counter and stood to the side. Officer Gregory could be seen struggling with

²⁹ Sergeant Olden's body-worn camera shows the following at the point when Officer Gregory has stepped away: While still trying to secure Holguin's arms in the soft restraints, Sergeant Olden asked, "Is he breathing?" Someone answered, "Yeah, he's still breathing." Someone else said, "Yeah, he went quiet." Holguin was no longer moving or yelling. Holguin was then quickly wheeled off to the ambulance.

³⁰ The surveillance videos were viewed in their entirety; herein is a summary only. The surveillance videos did not record sound.

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Holguin on the ground. As Officer Gregory continued to struggle with Holguin on the ground, a male employee assisted him.

18:03:43 Officer Asbee arrived and headed back behind the counter to assist Officer Gregory. The employee who had been assisting Officer Gregory stood up and began moving restaurant supplies on the lower portion of the counter away from Holguin.

18:04:47 Corporal Beckman arrived and headed back behind the counter to assist the other officers.

18:05:03 Sergeant Olden arrived and walked back behind the counter, joining the other three police officers. After several seconds, Sergeant Olden walked out from behind the counter before walking out of view. Officer Asbee approached an employee at the cash register while Officer Gregory and Corporal Beckman remained with Holguin and knelt beside him. Officer Asbee spoke to several employees before walking out of the view of the camera.

The police officers continued to struggle with Holguin on the ground for several more minutes before they lifted Holguin up and carried him from behind the counter and then out of the view of the camera. One officer held his legs, another officer held underneath his arms, and a third supported the middle waist.

INJURED PARTY/DECEDENT

Death

On November 4, 2018, Jaime Holguin was pronounced deceased at Chino Valley Medical Center at 6:50 p.m.

Coroner Investigation

Coroner Investigator Witness #12 prepared a report with regard to her investigation. Witness #12 obtained the facts surrounding the incident involving Holguin and the Chino Police officers at the Black Bear Diner. The San Bernardino County Sheriff's homicide team was still gathering all the information on the incident, but preliminarily believed it was a probable case of excited delirium.

Holguin was pronounced deceased by Witness #13 at 6:50 p.m. at Chino Valley Medical Center. At 7:44 p.m., Witness #12 called the Chino Valley Medical Center and spoke to Witness #14. Witness #12 requested a rectal temperature for Holguin. Witness #14

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informed Witness #12 that Holguin's rectal temperature was 103.9 Fahrenheit.³¹ At 8:56 p.m., Witness #12 took Holguin's rectal temperature and found it to be 103.0 Fahrenheit.

Postmortem Examinations

Witness #15, a forensic pathologist in the Coroner Division of the San Bernardino County Sheriff's Department conducted the autopsy of Jaime Holguin on November 9, 2018.

Witness #15's diagnosis with regards to Holguin was as follows:

- I. Toxicology (femoral blood) positive for caffeine, naloxone, hydroxyzine (25 ng/mL), cyclobenzaprine (23 ng/mL), amphetamine (28 ng/mL), and methamphetamine (550 ng/mL)³².
- II. Cardiomegaly (415 grams) with left ventricular hypertrophy.
 - A. Hepatomegaly (2062 grams).
- III. Injuries.
 - A. Facial lacerations.
 - B. Subcutaneous hemorrhage of the occipital and right frontal scalp.
 - C. Abrasions of chest, right buttock, both elbows, both forearms, right hand, both knees, left lower leg, and left lateral malleolus.
 - D. Contusions to the upper back.
 - E. Suprafascial skin avulsions of the left knee.
- IV. Resuscitation-related fractures of multiple ribs and the sternum with associated soft tissue hemorrhage.

Witness #15's report listed Holguin's cause of death as follows: Acute methamphetamine toxicity, unknown.³³ Cardiomegaly³⁴ was listed as a contributing cause. Witness #15 listed the manner of death as: Accident. Witness #15 commented: Based on review of the investigation and a comprehensive postmortem examination including autopsy

³¹ Holguin's elevated body temperature corroborates the officers' statements about Holguin being very hot to the touch. In addition, it supports each officer's belief that Holguin was suffering from excited delirium syndrome, as hyperthermia (high body temperature) is one of the manifestations of the syndrome.

³² The high levels of amphetamine and methamphetamine support each officer's belief that Holguin was under the influence of a controlled substance and was suffering from excited delirium syndrome as methamphetamine toxicity is one of the causes of excited delirium syndrome.

³³ With regard to excited delirium syndrome, the cause of death is not always clear. According to the US National Library of Medicine National Institutes of Health, "Over the past decade, the excited delirium syndrome (ExDS) has raised continued controversy regarding the cause and manner of death of some highly agitated persons held in police custody, restrained or incapacitated by electrical devices. *At autopsy, medical examiners have difficulty in identifying an anatomic cause of death*, but frequently cite psychostimulant intoxication as a contributing factor. The characteristic symptoms of ExDS include bizarre and aggressive behavior, shouting, paranoia, panic, violence toward others, unexpected physical strength, and hyperthermia." (Emphasis added.)

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5061757/>

³⁴ The term "cardiomegaly: refers to an enlarged heart. <https://www.mayoclinic.org/diseases-conditions/enlarged-heart/symptoms-causes/syc-20355436>

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examination and histologic examination, there is no evidence that the decedent sustained any fatal injuries.

HOLGUIN'S CRIMINAL HISTORY

1991, 273.5 of the Penal Code, Inflict Corporal Injury to Spouse/Cohabitant; 417 of the Penal Code, Exhibit a Deadly Weapon. Los Angeles County case number 91M05925, misdemeanors.

1992, 242 of the Penal Code, Battery. Los Angeles County case number 92M09209, a misdemeanor.

1996, 242 of the Penal Code, Battery. Los Angeles County case number 6JM11897-01, a misdemeanor.

1996, 11550 of the Health and Safety Code, Under the Influence of a Controlled Substance. Los Angeles County case number 95M1587301, a misdemeanor.

2008, 594 (a) of the Penal Code, Vandalism. Los Angeles County case number ELABA34983701, a felony.

2009, 11364 (a) of the Health and Safety Code, Possession of Paraphernalia for Unlawful Use. Los Angeles County case number ELM8RI0668501, a misdemeanor.

2009, 594 (a) of the Penal Code, Vandalism; 653m (a) of the Penal Code, Obscene, Threatening, Harassing, or Annoying Telephone Calls. Los Angeles County Case number POM8PK0521601, misdemeanors.

2009, 245 (a)(1) of the Penal Code, Assault by Means of Force Likely to Cause Great Bodily Injury. Los Angeles County case number XEAKA08767801.

2010, 166(a)(4) of the Penal Code, Contempt of Court: Disobey a Court Order. Los Angeles County case number CIT0JB0669901, a misdemeanor.

2010, 166(a)(4) of the Penal Code, Contempt of Court: Disobey a Court Order. Los Angeles County case number CIT0JB0911501, a misdemeanor

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APPLICABLE LEGAL PRINCIPLES³⁵

Penal Code section 415: Disturbing the Peace

Any of the following persons shall be punished by imprisonment in the county jail for a period of not more than 90 days:

- (1) Any person who unlawfully fights in a public place or challenges another person in a public place to fight.
- (2) Any person who maliciously and willfully disturbs another person by loud and unreasonable noise.
- (3) Any person who uses offensive words in a public place which are inherently likely to provoke an immediate violent reaction.

Penal Code section 647 (f): Disorderly Conduct

Every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

- (f)** Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, controlled substance, or toluene, ***in a condition that they are unable to exercise care for their own safety or the safety of others***, or by reason of being under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, or toluene, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way. (Emphasis added.)

Police Power to Detain Individual:

An officer has the right to temporarily detain a person when the officer has a reasonable suspicion of that person's involvement in criminal activity. Reasonable suspicion demands some minimum level of objective justification, but considerably less than is required for probable cause to arrest. (*United States v. Sokolow* (1989) 490 U.S. 1, 7; *Terry v. Ohio* (1968) 392 U.S. 1, 22.)

One function of a temporary detention is to resolve any ambiguity in the situation to find out whether the activity was in fact legal or illegal. (*People v. Souza* (1994) 9 Cal.4th 224, 242.) A detention is intended "to permit a speedy, focused investigation to confirm or dispel [the] individualized suspicion of criminal activity" justifying it. (*People v. Soun* (1995) 34 Cal.App.4th 1499, 1516.)

³⁵ All references to code sections herein pertain to the California Penal Code as they existed at the time of the incident.

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Police Use-of-Force to Detain or Arrest:

An officer attempting to enforce a detention or arrest may use an amount of force that is reasonably necessary. (*People v. Brown* (1985) 169 Cal.App.3d 159, 167.) The right to detain or arrest is meaningless unless officers may, when necessary, forcibly do so. (*People v. Johnson* (1991) 231 Cal.App.3d 1, 12.) Officers are “authorized to take such steps as [are] reasonably necessary to protect their personal safety and to maintain the status quo during the course of the stop.” (*United States v. Hensley* (1985) 469 U.S. 221, 235; *People v. Soun* (1995) 34 Cal.App.4th 1499.)

Use-of-force is often criticized as being either: (1) unjustified or (2) excessive. Both charges are analyzed under the same reasonableness standard (*Graham v. Connor* (1989) 490 U.S. 386, 395):

Reasonableness is an objective analysis and must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. It is also highly deferential to the police officer's need to protect himself and others. 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. The question is whether the officer's actions are “objectively reasonable” considering the facts and circumstances confronting them, without regard to their underlying intent or motivation. (*Id.* at p. 396-397.)

“[W]hen reasonably necessary under the circumstances” an officer may handcuff a suspect for a short period of time to conduct a pat down search (*People v. Osbourne* (2009) 175 Cal.App.4th 1052, 1062) or when a suspect is uncooperative or presents a reasonable possibility of danger. (*People v. Stier* (2008) 168 Cal.App.4th 21, 27-28.) An officer may strike a suspect when necessary to compel submission to an arrest. (*People v. Lopez* (1963) 222 Cal.App.2d 682, 685.) And, when reasonably necessary, an officer may detain at gunpoint, order out of cars, force to lie on the ground, and handcuff. (See, e.g., *People v. Celis* (2004) 33 Cal.4th 667, 674-676; *People v. Soun* (1995) 34 Cal.App.4th 1499; *People v. Johnson, supra*, 231 Cal.App.3d at p. 14; *In re Carlos M.* (1990) 220 Cal.App.3d 372, 385; *People v. Gorak* (1987) 196 Cal.App.3d 1032, 1038; *People v. Bowen* (1987) 195 Cal.App.3d 269, 274; *People v. Brown* (1985) 169 Cal.App.3d 159, 166-167; *People v. Craig* (1978) 86 Cal.App.3d 905, 912-913.)

ANALYSIS

On November 4, 2018, Holguin entered Black Bear Diner. He immediately drew the attention of restaurant patrons and staff due to his erratic behavior and non-sensical

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rants about people following him. He was described by patrons and employees as stumbling, sweating and yelling after he entered the diner. In addition, Holguin sat down on a bench against a block wall and banged his head on the wall. Employees directed him to stop as he was hurting himself. Holguin eventually charged in the direction of the kitchen area. In order to keep Holguin under control, it took three employees to hold him down. During this time, police were called to the diner.

Officer Gregory was dispatched to the call for service reference an individual who had caused a disturbance inside of the restaurant. Officer Gregory arrived right after employees had taken Holguin to the ground. He then had to make a quick assessment of the situation in order to relieve the employees who had to restrain Holguin. Even after Officer Gregory took over, he was unable to completely control Holguin due to Holguin's behavior. Holguin flailed around, kicked his legs and swung his arms around. Officer Gregory attempted to deescalate the situation and gave Holguin a warning that force may be used against him if he didn't follow commands. Officer Gregory quickly made an initial assessment that Holguin was under the influence of a controlled substance as Holguin said things which did not make sense and did not follow directives. Rather than using force against Holguin for not following commands, Officer Gregory recognized Holguin's level of distress. He spoke to Holguin in both in Spanish and English and told him to relax. Many of the restaurant employees witnessed Officer Gregory's efforts to calm him, telling Holguin that he was going to be alright. In addition, restaurant patrons also heard Officer Gregory try to calm Holguin down.

Officer Gregory tried to help Holguin sit-up so they could exit the restaurant, but Holguin flopped back on the ground and struck his head on the floor. Officer Gregory knew that someone, including Holguin, could get hurt if didn't get control over Holguin. Officer Gregory took ahold of one of Holguin's wrists to try to control him. Holguin continued to yell and flail his arms, legs, and body. Because he could not control Holguin's movements, Officer Gregory decided he needed to place Holguin into handcuffs for officer safety as well as the safety of the employees and patrons of the restaurant. Holguin's behavior and movements were so erratic that Officer Gregory was unable to control Holguin by himself. The restaurant employees that held Holguin down while waiting for officers to arrive described him as having increased strength, or "super-powers" and that he didn't appear to feel pain. Witness #9, a restaurant employee, had to assist Officer Gregory in order to get Holguin into handcuffs. Even with assistance, Officer Gregory was unable to handcuff Holguin's arms behind his back, as dictated by standard procedure, and he had to handcuff Holguin's arms to the front. Witness #9 described the process that Officer Gregory used as one in which he didn't apply pressure, he just held Holguin's hands.

Officer Gregory quickly determined Holguin's symptoms called for emergency medical care. This determination was based on Holguin's behavior and his objective symptoms. Only two minutes after arriving on scene, Officer Gregory called for dispatch to have the fire department respond to the diner.

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Additional officers arrived at the diner. Officer Gregory, Officer Asbee, and Corporal Beckman all discussed their belief that Holguin was under the influence of drugs and needed medical attention. The three officers tried to control Holguin as they attempted to keep him safely in place until the fire department arrived. In his condition, Holguin was unable to care for himself, and therefore; the officers could not have safely left Holguin to his own care. As such, their detention of Holguin, was not only objectively reasonable, but was necessary to secure his own safety.

While the officers waited with Holguin for the fire department to arrive, Holguin continued moving his body around and thrashing his head up and down and side to side, nearly hitting the floor and the nearby shelves. Both Corporal Beckman and Officer Gregory put their hands between Holguin's head and the floor, thus keeping him from hitting the front of his head and face on the ground and the nearby shelves. The only level of force that was used was controlling force, essential to ensure the safety of Holguin. In addition, Corporal Beckman was so concerned about the medical state of Holguin that he talked to Officer Gregory about his concern of positional asphyxia; he wanted to make sure that Holguin wasn't pinned down so as to impede his breathing. Corporal Beckman took further efforts to ensure Holguin's breathing wouldn't be impeded by putting his hand on Holguin's upper back between his shoulder blades, allowing Holguin to lift up onto his elbows several times.

When Sergeant Olden arrived on scene, they were able to move Holguin outside so the firefighter paramedics could render aid. After carrying Holguin outside, the officers gently placed Holguin down onto the grass. Several patrons observed the officers carry Holguin out of the restaurant and set him down easy on the ground outside, very gently and professionally. A paramedic tried to obtain Holguin's vitals, but was unable to do so due to Holguin's erratic behavior and movements. Even with the officers helping the paramedic by trying to hold Holguin still, the paramedic was unable to render the necessary aid. Patrons also observed Holguin outside of the restaurant and described that he put up an extreme fight. Everyone that observed the officers outside maintained that they were professional and appropriate in their efforts to assist Holguin.

As soon as the ambulance arrived and brought out the gurney, Holguin was moved onto it so he could be safely transported to the hospital. Because of Holguin's continued erratic behavior and resistance, he was placed into the gurney's soft restraints. Given Holguin's extreme behavior there simply was no way the paramedics could have treated Holguin were he not restrained.

During their encounter with Holguin, none of the officers placed their body weight onto Holguin's back or chest. The officers' goals were obvious: they were there to help Holguin and to keep him safely there until the ambulance arrived to transport him to the hospital. The officers' actions were appropriate and were done in furtherance of this goal. In addition, their actions were also objectively reasonable.

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Excessive force was not used during the incident under review. This is supported by the witness statements, body-worn camera videos, and the findings in the autopsy report. Witness #15 listed the cause of death as acute methamphetamine toxicity, unknown, with Cardiomegaly listed as a contributing cause. In addition, Witness #15 noted Holguin sustained no fatal injuries.

CONCLUSION

The San Bernardino County District Attorney's Office concludes there is no evidence to establish criminal liability on the part of any involved member of the Chino Police Department.

Submitted By:
San Bernardino County District Attorney's Office
303 West Third Street
San Bernardino, CA 92415
Dated: August 7, 2020

