



PUBLIC RELEASE MEMORANDUM

Subject: Officer-Involved Death

Involved Deputies: Deputy Julian Mata
Deputy Humberto Miranda
Deputy Jessaqua Attlesey
San Bernardino County Sheriff's Department

Involved Subject/DOB: Ruben Escudero
05/21/1978

Subject's Residence: Transient, Victorville

Incident Date/Time: October 19, 2019, 9:07 a.m.

Date/Time of Death: October 23, 2019, 8:48 p.m.

Incident Location: 16000 block of Monte Vista Street
Victorville, CA

Case Agent/Agency: Detective N. Craig
San Bernardino Sheriff's Department

Agency Report Number: DR# 171909396
H# 2019-106

DA STAR Number: 2020-39639

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PREAMBLE

This was an officer-involved death investigated by the San Bernardino County Sheriff's Department. This factual summary is based on a thorough review of all the investigative reports, photographs, and audio recordings submitted by the San Bernardino County Sheriff's Department.

FACTUAL SUMMARY

Shortly after 9:00 a.m. on October 19, 2019, San Bernardino County Sheriff's Deputies Julian Mata, Humberto Miranda, and Jessaqua Attlesey responded to a 911 call regarding a suspected heroin overdose at a Victorville residence. The small home was in a neighborhood marked by high crime and drug activity. Witness #1, the resident, occasionally let transients use his home to shower.

Earlier that morning, Ruben Escudero, a known transient, visited Witness #1's residence. When Escudero knocked, Witness #1's friend, Witness #2, opened the door and allowed him inside. Escudero went to the bedroom where Witness #1 was asleep, tossed him a burrito, and sat on a chair in the room. After a brief conversation with Witness #1, Escudero got up and went into the bathroom. Escudero returned to the bedroom and sat down again. About two minutes later, Escudero slumped over in the chair, vomited, and lost consciousness.

Witness #1 called Witness #2 to come into the bedroom to help. They tried to wake Escudero without success and then called 911. Deputies Mata and Miranda were the first on scene. Witness #2 led them to a back bedroom, where they found Escudero unconscious on the floor. Witness #1 and Witness #2 identified Escudero as Ruben but told the deputies they did not know his last name. Witness #1 explained that he occasionally allowed Escudero to use his residence to shower. Witness #1 told the deputies that when he awoke that morning, he found Escudero groaning on the floor.¹ Witness #1 pointed to a burnt spoon on the nightstand that he believed was Escudero's. When the deputies asked what drugs Escudero had used, Witness #1 and Witness #2 said they did not know, but they suspected heroin due to the spoon. In addition to the burnt spoon, Deputies Mata and Miranda saw several syringe caps on the floor in the bedroom. Deputy Mata tried to wake Escudero by tapping his cheeks and chest, but Escudero remained unconscious.

Firefighters and medics from the Victorville City Fire Department and American Medical Response (AMR) arrived a short time later. Deputies Mata and Miranda carried Escudero to the living room where there was more room for the medical personnel to render care. Deputies Mata and Miranda stood back to allow medical personnel to treat Escudero. An

¹ During his interview by detectives after the incident, Witness #1 said that Escudero tossed him a burrito before going into the bathroom. Witness #1 did not claim to be asleep after Escudero returned from the bathroom, contrary to what he had told the deputies when they arrived at his home.

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EMT with the fire department and an EMT from AMR assessed Escudero's vitals, including blood pressure, blood sugar, and oxygen levels. Because Escudero was not breathing adequately, medics began assisting his ventilations with a bag valve mask. An EMT administered Narcan intranasally to Escudero and warned others in the room that Escudero may become violent.

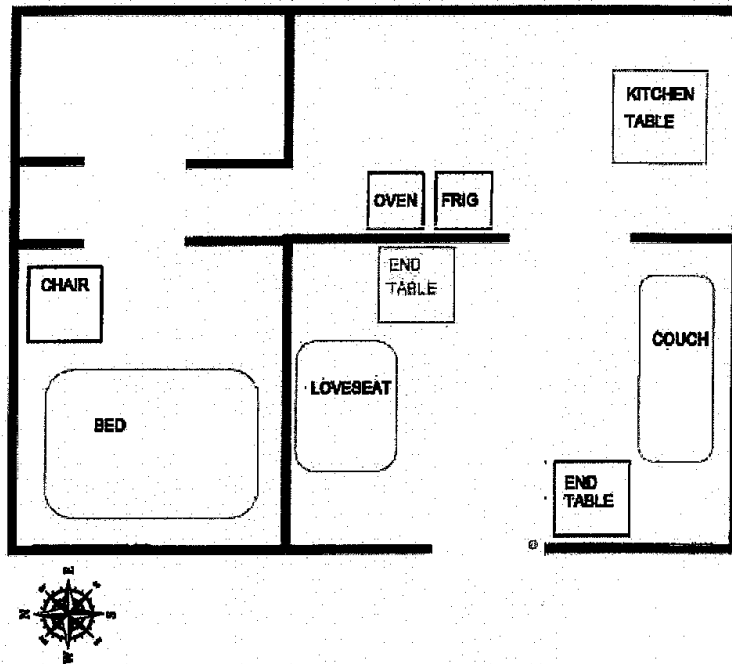
While medical personnel attended Escudero, Deputy Attlesey arrived at the residence to check on Deputies Mata and Miranda. From the open front door, Deputy Attlesey looked inside and saw Escudero lying on his back on the floor with an oxygen mask on his face. Medical personnel, including three uniformed firefighters and two uniformed AMR medics, surrounded Escudero in the small living room while Deputies Mata and Miranda stood to the side.² Witness #1 and Witness #2 were also inside, watching from the kitchen. Because the room was crowded, Deputy Attlesey waited outside, observing from the threshold.

About two minutes after Deputy Attlesey's arrival, Escudero began to regain consciousness. Escudero began to dry-heave and medical personnel turned him onto his side to prevent aspiration. The medics identified themselves to Escudero, explained they were there to help, reassured him that he was okay, and encouraged him to relax. Escudero appeared confused. The medical team again explained what was occurring and tried to keep Escudero calm as they prepared to transport him to the hospital. However, as Escudero became more alert, he grew agitated. Escudero asked the medics what they were doing to him. Despite their attempts to reassure him, Escudero remained confused and became aggressive.

² The incident occurred in the living room, which measured 13'2" wide from north to south and 13'4" wide from east to west.² The living room was about 175.42 square feet. Furniture in the living room consisted of a couch, loveseat and two end tables. The furniture measurements were as follows: The couch was 8' long and 3'6" wide, each end table was 2'4" wide by 2'4" wide, and the loveseat was 4' wide by 3'6" wide.

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Scene drawing created by detectives.

Escudero tried to get up, but the medics tried to keep him calm and to remain lying down so they could safely move him to the ambulance for transport to the hospital. Despite their efforts, Escudero continued to try to get up. As the medics struggled to keep Escudero calm, Deputy Mata stepped in to assist. Deputy Mata told Escudero they were there to help him and to stop. Deputy Mata told Escudero he was with the Sheriff's Department. Witness #2 and Witness #1 also tried to help calm Escudero and told him, "Stop. They're trying to help you." Nevertheless, Escudero continued getting up. Deputy Mata gently grabbed onto the front of Escudero's shirt and pressed down to restrain him. Deputy Mata told Escudero to relax and tried to keep him down, but Escudero refused to stay lying down.

Escudero got to his knees, balled his fists, and began swinging at the medics beside him. The medics quickly backed away as Escudero advanced, swinging his fists fast and hard, narrowly missing them. The medics darted left and right to avoid being struck. Some medics were forced to step onto the couch to avoid his punches. One of the medics headed to the front door and ran outside for her safety. To protect the medical personnel, the deputies intervened. Deputy Attlesley entered the living room. The deputies told Escudero to "get on the ground," but he refused. As Escudero tried to strike the medics, Deputy Mata punched Escudero's face, but it had no effect on him. Deputy Mata grabbed onto Escudero and tried to force him to the ground, but Escudero got to his feet and continued his attack.

Deputy Miranda approached to help Deputy Mata who tussled with Escudero. The deputies repeated their commands to Escudero to "get on the ground," but still he refused.

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Deputy Attlesey withdrew her Taser and deployed it at Escudero. The Taser darts struck Escudero. The Taser was effective and Escudero fell to the floor, landing on his back. Deputy Attlesey told Escudero to turn onto his stomach. As Deputy Mata approached Escudero to place him in handcuffs, Escudero turned onto his stomach, got up onto his knees, and then to his feet. Deputy Attlesey tried to deploy her Taser a second time, but it was ineffective at subduing Escudero. The deputies repeated their commands for Escudero to "get on the ground," but Escudero continued his assault, punching wildly toward "anyone and everyone." Deputy Mata grabbed the back of Escudero's shirt and struck Escudero four to five times in the face. Deputy Mata's strikes seemed to have no effect on Escudero.

Escudero advanced toward Deputy Miranda. Deputy Miranda withdrew his baton from his duty belt and ordered Escudero to "get on the ground," but Escudero refused. Deputy Mata grabbed Escudero from behind, wrapped his arm around his head and pulled him to the ground. Escudero fell to his knees. Escudero struck Deputy Mata in the face, during the fray, but because of the speed with which things occurred, Deputy Mata was unsure when it happened.

Deputy Mata straddled Escudero who was on his hands and knees, refusing to lie down flat on his stomach. Escudero tried to get to his feet. Deputy Miranda grabbed hold of Escudero's legs. During the struggle, Escudero kicked Deputy Miranda in the knee. Deputy Mata told Escudero to stop trying to get up. While Deputies Mata and Miranda struggled with Escudero, Deputy Attlesey grabbed Deputy Miranda's Taser and twice deployed it at Escudero. The Taser proved ineffective and had no effect on Escudero. With all his body weight, Deputy Mata tried to push Escudero flat on his stomach, but Escudero was stronger. As Escudero overpowered and lifted Deputy Mata off the ground, Deputy Attlesey used the Taser as an impact weapon to strike Escudero in the face. Deputy Attlesey hit Escudero in the face and then, as Escudero turned his face away from her blows, struck the upper side of his head. Though the impacts of the Taser caused lacerations to Escudero's bald head and he began to bleed profusely, Escudero was unfazed. Escudero continued to kick and fight to get up. Deputies Mata and Miranda struggled to restrain Escudero so they could place him in handcuffs. Two of the EMTs quickly conferred and determined that Escudero needed to be sedated for everyone's safety. One of the EMT's went outside to retrieve a sedative from the ambulance.

Seeing that Escudero was overpowering the deputies, two of the firefighters stepped in to help. One of the firefighters put his foot on Escudero's upper back and pressed down, to hold him to the floor while the other firefighter helped Deputy Mata put a handcuff on Escudero's left wrist. Deputy Attlesey tried to pull Escudero's right arm from beneath his body, but Escudero was too strong. Escudero continued fighting and kicking while Deputy Mata and one of the firefighters struggled to maintain control of Escudero's handcuffed wrist. Recognizing that Escudero could use the handcuff as a weapon if Deputy Mata and the firefighter lost control, Deputy Miranda let go of Escudero's legs and helped Deputy Mata and the firefighter hold onto Escudero's left arm. Deputy Attlesey used the baton as

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a lever to pull Escudero’s right arm from beneath his body. Together, the three deputies and two firefighters successfully placed another set of handcuffs onto Escudero’s right wrist and then connected the two sets of cuffs together. Despite being handcuffed, Escudero continued to kick and tried to get up. Deputy Miranda placed leg restraints on Escudero as the EMT returned to the living room and injected a sedative into Escudero’s arm. Within minutes, Escudero stopped fighting.



Photograph of scene after the incident.

The medics quickly loaded Escudero into the ambulance for transport to the hospital. Escudero’s breathing was inadequate, so once again the medics assisted his ventilations with a bag valve mask. When the ambulance arrived at the hospital, just a few short blocks away, Escudero went into cardiac arrest. CPR was initiated and Escudero’s care was transferred to hospital staff. Escudero never regained consciousness and after several days, was taken off life support. Escudero was declared deceased on October 23, 2019. At autopsy, the doctor determined Escudero’s cause of death was acute methamphetamine, heroin, and phencyclidine toxicity.

PHYSICAL SIZE OF INVOLVED SUBJECTS³

Ruben Escudero	6” tall, 204 pounds
Deputy Julian Mata	5’10” tall, 208 pounds
Deputy Humberto Miranda	6’3” tall, 230 pounds
Deputy Jessaqua Attlessey	5’6” tall, 155 pounds

³ Height and weights are approximate and are based on the investigative reports and autopsy protocol.

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STATEMENTS BY DEPUTIES⁴

The involved deputies were employed by the San Bernardino County Sheriff's Department. The deputies drove distinctively marked patrol units and wore uniforms identifying them as sheriff's deputies. Each of the deputies carried the following items on their duty belts: RCB expandable baton, Taser X2, handheld radio, Glock pistol, OC pepper spray,⁵ digital belt recorder, and handcuffs. The deputies did not have body-worn cameras. Deputy Mata and Deputy Miranda's belt-recorders were activated during the incident under review. Each deputy was given the opportunity to review audio of the incident during their interviews.

On October 30, 2019, at approximately 9:31 a.m., **Deputy Julian Mata** was interviewed by Detectives Nicolas Craig and Jerry Moreno of the San Bernardino County Sheriff's Department.

Deputy Mata was employed by the San Bernardino County Sheriff's Department and had been a deputy sheriff for approximately three years. On October 19, 2019, Deputy Mata was on duty, assigned to patrol. At about 9:05 a.m., Deputy Mata was in Victorville when dispatch aired a call regarding a suspected heroin overdose at a residence located at [redacted] Monte Vista Street in Victorville. Deputy Mata was familiar with the location because he had previously responded to calls for service there. The residence was known for being a "drug user house." Neighbors and witnesses had previously reported frequent drug use and drug activity occurred at the residence.

Because it was a medical emergency and he was near the residence, Deputy Mata responded to the call, as is common practice. Deputy Mata wanted to assess the situation quickly in case lifesaving measures, like CPR, needed to be started. Deputy Mata arrived at about 9:07 a.m. Deputy Humberto Miranda, who drove a separate patrol unit, arrived at the same time. It was a medical aid call, and the fire department and ambulance were also dispatched and on the way.

Deputies Mata and Miranda were the first to arrive on scene. Because of the nature of the call, Deputy Mata and Deputy Miranda put on gloves. Deputy Mata activated his belt-recorder as he and Deputy Miranda approached the house. The deputies identified themselves as the Sheriff's Department. A female (later identified as Witness #2) greeted the deputies at the door and said, "Oh, you guys got here fast." Witness #2 escorted the deputies inside. The residence was a very small, single story dwelling and was located at the back of the property behind the main residence. The entry door led directly into the living room. Witness #2 led Deputy Mata and Deputy Miranda from the living room through the kitchen/hallway area to the only bedroom in the house. A man, later identified as Ruben Escudero, was lying on his back on the bedroom floor, with his feet pointed toward the kitchen area and his head pointed toward the back of the bedroom.

⁴ Herein is a summary only. All reports submitted were reviewed, but not all are referenced here.

⁵ Deputy Attlesley did not carry OC pepper spray on the date in question.

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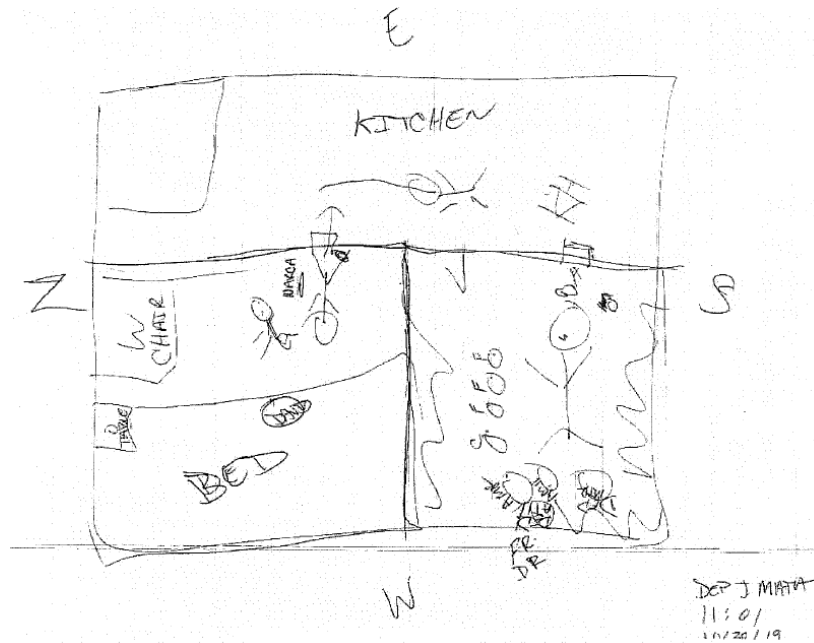
Witness #1, a resident of the home, identified Escudero as "Ruben." The deputies asked for Ruben's last name, but neither Witness #2 nor Witness #1 knew his last name. Witness #1 stated that Escudero did not live at the residence but "comes here to take a shower and then he leaves." Witness #1 advised that when he awoke, he saw Escudero on the floor groaning. Because of Escudero's condition, Witness #1 asked his sister, Witness #2, to call 911. Witness #1 told Deputy Mata there was a spoon, that he believed was Escudero's, on the nightstand beside the bed. Deputy Mata and Deputy Miranda asked what drugs Ruben had used. Witness #2 and Witness #1 did not know, but said because of the spoon, they believed Escudero had taken heroin.

On the nightstand in the bedroom, Deputy Mata saw the spoon and an orange cap. Based on Deputy Mata's training and experience, he knew the orange cap was from a hypodermic syringe. The bottom of the spoon was burnt and black. Deputy Miranda told Deputy Mata he saw a second orange cap on the floor. Because of the orange syringe caps, Deputy Mata suspected there was a hypodermic needle somewhere in the room but did not see it. Deputy Mata felt Escudero's pants pockets and squeezed to feel for a syringe but found none. Witness #1 pointed to vomit on the hallway door to the kitchen. Deputy Mata saw there was also vomit on the floor just inside the bedroom near the doorway. Deputy Mata immediately tried to get Escudero's attention by tapping him on the right and left sides of his face. Deputy Mata used his fingers to tap the center of Escudero's cheeks. This did not rouse Escudero, so Deputy Mata rubbed Escudero's sternum and lightly tapped Escudero's chest. Escudero was unconscious and Deputy Mata was unable to wake him.

Deputy Mata told Witness #2 to go outside to meet the fire department and direct them to their location, which was inside the back residence and not inside the main front residence. Due to the tight space in the bedroom, Deputies Mata and Miranda moved Escudero to the kitchen where there was more room to administer aid. Deputy Mata lifted Escudero by his arms while Deputy Miranda lifted Escudero by his legs. Together, the deputies carried Escudero into the kitchen. As they placed Escudero onto his back on the kitchen floor, Deputy Mata heard sirens approaching. The fire department arrived on scene. One of the firefighter medics came into the residence, and the deputies asked him if he wanted Escudero moved to the living room where there was more space. The firefighter medic said yes, so Deputies Mata and Miranda carried Escudero by his arms and legs into the living room.

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Deputy Mata's Scene Sketch⁶

Once they placed Escudero onto his back on the living room floor, the deputies released Escudero to the care of the medics. Deputy Mata stayed in the living room near Escudero's head. Escudero's legs were toward the front of the residence, and his head was near the kitchen. Firefighter medics started providing medical attention to Escudero. There were two firefighter medics and a fire captain in the living room. Two American Medical Response (AMR) medics arrived on scene and entered the living room. Deputy Jessaqua Attlesley also arrived on scene. Deputy Mata estimated there were nine people inside the small living room. Witness #2 and Witness #1 stood in the kitchen, which was adjacent to the living room.

Deputy Mata moved to Escudero's right side to provide additional room for the medics to render medical care. A medic placed an oxygen tank about a foot away from Escudero's head and began to give Escudero oxygen while another medic attempted to get Escudero's vital signs. The medics asked the deputies if they knew what type of medication or drugs Escudero had used. The deputies advised that they believed Escudero had taken heroin because that was the information provided at the time of the 911 call, evidence at the scene, and the statements from Witness #1 and Witness #2. Deputy Miranda told the medics that he had found a Narcan pen, which is used to combat

⁶ Per Deputy Mata, his sketch depicted the living room in the lower left quadrant, at the west and south corners of the residence. The stick figure on the floor in the living room represented Escudero. The squiggly lines to the north and south of Escudero represented the living room furniture, which consisted of sofas and end tables. During the incident under review, the medics were positioned just north of Escudero. Deputy Mata was south of Escudero. Deputy Humberto Miranda and Deputy Jessaqua Attlesley were also present in the living room near Deputy Mata just prior to and during the incident. When Escudero began swinging at the medics, all parties moved around the living room to avoid being struck by Escudero.

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the effects of a drug overdose. The deputies did not know whether Escudero had used it or not, but Deputy Miranda had found it beside Escudero's body. The medic made a comment, "Not today, dirt bag."⁷ Deputy Mata believed the comment was inappropriate but took it to mean that the medic's meaning that Escudero was "not going to die today." Deputy Mata turned off his belt-recorder because of the comment and because Escudero's care had been relinquished to the medics at that point. Further, it was a medical aid call and not a call for service regarding criminal activity.

A firefighter medic said he would administer Narcan to Escudero and advised that Escudero "was probably gonna fight or he's probably gonna be angry." Deputy Mata had responded to 10-20 calls for service regarding overdoses in the previous two years but had never witnessed a person regain consciousness and automatically start fighting. Escudero regained consciousness within one to three minutes after the medic administered the Narcan. Escudero began dry heaving and "got up." "We'd move him to the left and then put him down," and told Escudero, "Hey, dude, you know we're here to help. Stop. We're here to help."⁸ Escudero asked, "Who are you?" Deputy Mata replied, "We're the Sheriff's Department." Deputy Mata heard Witness #2 and Witness #1 from the kitchen tell Escudero to "Stop. They're trying to help you." Deputy Mata gently grabbed onto the front of Escudero's shirt and pressed down to restrain him. Deputy Mata made eye contact with Escudero and told him, "You need to chill." Escudero replied, "I'm not gonna chill." With Escudero's response and the fact that he made eye contact with him, Deputy Mata believed Escudero heard and understood what Deputy Mata said. Fire and AMR personnel wore distinctive uniforms, as did the deputies. Deputy Mata believed a reasonable person would have recognized who they were and why they were there.

Escudero refused to stay lying down. Escudero got up on his knees, tucked in his elbows, balled his fists, and took a "fighting stance." Escudero began swinging at the firefighter and AMR medics. Escudero swung his fists to the right and to the left, 10 to 12 times, as if he was hitting a "punching bag." Escudero moved toward the medics as he swung his fists at them. The medics quickly backed up and some of them climbed onto the furniture that was behind them on the north wall, attempting to get away from Escudero. The living room was "extremely small," and was a very tight space with so many people in the room. Escudero moved one to two feet toward the medics as he swung at them. Escudero was only inches from striking the medics. Deputy Mata feared Escudero would hit them if he did not restrain Escudero. Deputy Mata did not understand why Escudero wanted to fight them when they were there to help, but it was clear from Escudero's actions, that he "wanted to fight."

Deputy Mata intervened and struck Escudero with his fist to protect the medics. At that moment, Deputy Mata heard the Taser as Deputy Attlessey deployed it at Escudero. Deputy Mata believed one of the Taser darts struck Escudero's lower back, but it was difficult to tell because Escudero was moving around. Deputy Mata believed the Taser

⁷ Deputy Mata did not identify the medic by name. Deputy Miranda also told detectives about this comment.

⁸ Deputy Mata did not say who he meant by "we."

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was deployed one time. Deputy Mata did not see anyone use the Taser as an impact weapon. Escudero fell to the floor and landed on his back. Deputy Attlessey told Escudero, "Get on your stomach." Escudero turned onto his stomach but got up onto his knees and started to go toward the medics again, swinging his fists back and forth, punching to the left and right.

The medics darted left and right to avoid being struck by Escudero. Some of the medics stood on the couch, some were near the kitchen/hallway area. Deputy Mata grabbed the back of Escudero's shirt and swung his right fist to punch Escudero. Deputy Mata struck Escudero's face four to five times with his fist. Deputy Mata's goal in punching Escudero was to deliver "defensive strikes" to prevent Escudero from injuring the medics and to force Escudero to comply with the commands to lie down on his stomach so he could not injure anyone. Deputy Mata was unable to use pepper spray because it would have affected everyone in the small living room. Deputy Mata's strikes were ineffective. Escudero remained on his knees and asked, "Why are you hitting me?" Escudero tucked in his elbows and started swinging his fists again. Deputy Mata focused on Escudero's hands as Escudero swung his fists around. All nine people, including the firefighters, AMR personnel, and the three deputies, were in the small living room. Deputy Mata believed Witness #2 and Witness #1 remained in the kitchen during the incident.

Escudero got to his feet and moved toward Deputy Humberto Miranda. When Escudero stood up, Deputy Mata heard the sound of a baton as Deputy Miranda expanded his rapid containment baton. Escudero and Deputy Miranda stood face to face. Deputy Miranda ordered Escudero to get on the ground, but Escudero refused. Deputy Miranda did not strike Escudero with his baton. The room was so small, and Deputy Mata was directly behind Escudero. If Deputy Miranda had swung the baton, it would have struck Deputy Mata. Deputy Mata grabbed Escudero and wrapped his arm around Escudero's head and chin. Deputy Mata used all his weight and turned his body to the left to pull Escudero down to the ground. Escudero fell to his knees. At some point between when Escudero stood up swinging and when Deputy Mata pulled Escudero down onto the ground, Escudero struck Deputy Mata in the face.⁹ It happened so fast that Deputy Mata was unsure when it occurred.

Escudero was on his hands and knees, not down on his stomach. Deputy Mata told Escudero to "stop getting up." Deputy Mata straddled Escudero and used all his body weight to push him down and hold him flat on his stomach on the floor. Even still, Escudero continued to try to get up. While struggling with Escudero, Deputy Mata heard "smacks," and "clapping sounds," but did not see what caused the sounds because he was focused on Escudero. Deputy Mata saw blood dripping down Escudero's face. Deputy Mata used all his body weight to hold Escudero down to prevent him from standing back up. Escudero's hands were tucked beneath his chest. Deputy Mata was not sure where the oxygen tank had gone and was concerned that it might have been beneath Escudero. The oxygen tank could have been used as a weapon by Escudero. Further,

⁹ Deputy Mata was treated for injuries to his face and jaw at the hospital.

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Escudero had not been searched, nor had the living room, so it was unknown whether Escudero had needles,¹⁰ a knife, or another weapon in his possession.

Deputy Mata told Escudero to give him his hands, but Escudero refused. Deputy Mata tried to pull Escudero's hands from beneath his chest but was unable to do so because of Escudero's resistance. Deputy Mata grabbed Escudero's left arm and felt Escudero's biceps muscles tense as he prevented Deputy Mata from pulling his left arm out from under his chest. Escudero was very strong, and Deputy Mata was unable to pull Escudero's left arm from beneath him. Deputy Mata tried using a pressure point technique he learned in the academy, pressing his thumb on an area near Escudero's lower ear for pain compliance, but it too proved unsuccessful.

One of the firefighters grabbed hold of Escudero's left arm and helped Deputy Mata pull it from beneath his chest and then behind his back. Deputy Mata and the firefighter struggled to maintain control of Escudero's left arm and tried to place a handcuff on his wrist. Deputy Mata's goal in restraining Escudero was so the medics could safely and quickly transport him to the hospital for emergency medical care. As Deputy Mata and the firefighter placed a handcuff on Escudero's left wrist, Deputy Attlesey tried to pull Escudero's right arm from beneath his chest. Escudero prevented Deputy Attlesey from pulling his arm out from beneath him. Deputy Attlesey used the baton as a pry bar, placing it beneath Escudero's right armpit or bicep, to pull his right arm from beneath his body. Even still, Escudero continued actively resisting and tried to pull his arms from their grasp. Deputy Mata and Deputy Attlesey were breathing hard from the struggle. The firefighter helped them place Escudero's right wrist into another set of handcuffs. Because of Escudero's size and his continued resistance, they had to use a second set of handcuffs to cuff Escudero's right wrist. The deputies then clasped both handcuffs together to successfully get both of Escudero's hands into cuffs.

Even though handcuffed, Escudero kicked his feet and tried to get up. Deputy Attlesey told Deputy Miranda to grab Escudero's feet. One of the medics said he was going to "administer Versed"¹¹ to Escudero. It was clear to Deputy Mata that the medics were unable to render any type of care to Escudero with his continued resistance. Deputy Mata asked Deputy Miranda to get the leg restraints from his pocket so they could place leg restraints on Escudero. The medic administered Versed to Escudero and within seconds to a minute, Escudero stopped fighting.¹²

¹⁰ While Deputy Mata did feel the outside of Escudero's pockets for needles, he did not conduct a thorough search of his person. Escudero wore baggy clothing which could have concealed syringes. Multiple syringe caps were present on the floor, indicating recent intravenous drug use. Deputy Mata did not locate the uncapped syringes before Escudero regained consciousness.

¹¹ Versed is the brand-name for midazolam. According to the National Institute of Health, midazolam may be administered intravenously to induce sedation, reduce anxiety, and produce amnesia before or during medical procedures.

¹² During Deputy Mata's interview, the detectives played Deputy Miranda's belt-recording and asked Deputy Mata to explain what occurred during portions of the audio recording. Based on the belt-recording's time, four minutes elapsed

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Deputy Mata checked the handcuffs to ensure they were not too tight on Escudero's wrists and double locked the cuffs so Escudero could be safely transported to the hospital. The medics placed Escudero onto a "MegaMover," and carried him outside where they placed him on a stretcher.¹³ The medics placed Escudero into the ambulance and transported him to the hospital. Deputy Mata saw the oxygen tank on the floor, about a foot from where Escudero's head had been while they struggled to handcuff him.

On October 30, 2019, at approximately 1:52 p.m., **Deputy Humberto Miranda** was interviewed by Detectives Nicolas Craig and Eric Ogaz of the San Bernardino County Sheriff's Department.

Deputy Miranda was employed by the San Bernardino County Sheriff's Department and had been a deputy sheriff for about three years. On October 19, 2019, Deputy Miranda was on duty, assigned to patrol. At approximately 9:05 a.m., Deputy Miranda heard a broadcast over his patrol radio regarding a call for service at [redacted] Monte Vista Street in Victorville regarding a suspected heroin overdose.¹⁴

Deputy Miranda was familiar with the location, which was in downtown Victorville. Deputy Miranda knew the neighborhood was a high-crime and high-drug area. Because it was a medical emergency, Deputy Miranda activated his lights and sirens and drove Code 3 to get there as quickly as possible to provide medical aid if they arrived before the fire department.

Deputy Miranda arrived at the Monte Vista Street residence at the same time as Deputy Mata, who drove a separate patrol unit. Witness #2 welcomed the deputies into the residence and led them through the living room and kitchen, and then down a hallway toward a bedroom where Escudero was located. Deputy Miranda saw Escudero's legs protruding from the doorway into the hallway. Escudero was unconscious on the floor, making "snorting sounds." The deputies asked Witness #2 and Witness #1 what had happened and they said they did not know. Witness #2 added that "Ruben" had possibly taken pills or heroin. Witness #2 and Witness #1 did not know Ruben's last name.

Deputy Mata attempted to get a reaction from Escudero by conducting a "sternum rub," and tapping Escudero on the face. Escudero did not react or regain consciousness. Deputy Miranda saw "needle caps," and what appeared to be a Narcan pen on the floor beside Escudero. Witness #2 told the deputies it was a Narcan pen. Deputy Miranda heard sirens approaching. The bedroom was very small, so Deputies Miranda and Mata carried Escudero into the kitchen where there was more space. When they placed Escudero onto the kitchen floor, the fire department arrived and made their way into the

from the moment Escudero first began his attack against the medics until Escudero was successfully restrained and administered Versed.

¹³ According to company website, the GRAHAM MegaMover Transport is a flexible, efficient patient transport method designed to rescue patients in areas that are inaccessible to stretchers. www.life-assist.com.

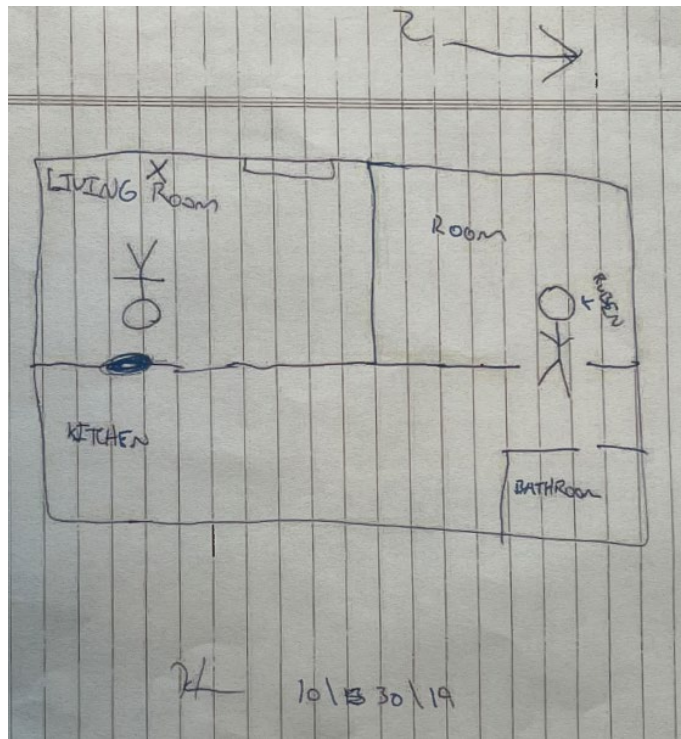
¹⁴ Deputy Miranda's statement was largely consistent with Deputy Mata's.

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living room. The kitchen was “really narrow,” but the living room had more space for medics to work on Escudero. Deputy Miranda asked the firefighter medics if they wanted Escudero moved to the living room and they said yes. Deputies Mata and Miranda carried Escudero into the living room and placed him on his back on the floor.

Deputies Miranda and Mata backed away to allow the medics to begin treating Escudero. The firefighter medics brought in their medical equipment, such as a breathing machine and a machine to check vital signs and began treating Escudero. At this point, there were three firefighters, two AMR medics, and Escudero in the small living room. Deputies Mata, Miranda, and Attlesley, who had also arrived on scene, were also present in the living room.¹⁵ The medical personnel and the deputies all wore their distinctive uniforms. Deputy Mata was on the south side of the living room, beside Escudero. Deputy Miranda was on west side, near Escudero’s feet. The medics stood north of Escudero in front of the couches on the north wall and near the east wall of the living room.¹⁶



Deputy Miranda’s Scene Sketch

A medic advised that he would administer Narcan to Escudero and warned that Escudero might get up and fight. Deputy Miranda had responded to many overdose calls where Narcan was administered. It was common for the person to vomit and suffer brief confusion. However, Deputy Miranda had never seen a violent reaction after the

¹⁵ Deputy Miranda reported that Deputy Attlesley arrived before the medics administered Narcan to Escudero.

¹⁶ During the struggle with Escudero, Deputy Miranda was unable to keep track of the medical personnel’s locations because he was focused on Escudero.

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administration of Narcan. Shortly thereafter, Escudero regained consciousness. Escudero sat up and began to dry-heave. The medics and Deputy Mata told Escudero, "Hey calm down, we're here to help." Escudero "attempted to get up and we were kind of holding him down like, hey calm down, we're here to help, we're here to help."¹⁷ The medics and Deputy Mata repeatedly reassured Escudero that they were there to help and told him to "calm down," "stay on the ground," and "we're here to help."¹⁸

Escudero still tried to get up. Escudero turned toward medical personnel, balled his hands into fists, and started swinging at them. Deputy Miranda was not sure whether Escudero was on his knees or sitting when he first swung at the medics. Deputy Miranda estimated that two minutes elapsed between the time Escudero was dry heaving before he started swinging at medical personnel. Escudero swung "pretty hard," between six to 10 times, as he tried to punch the medics. Deputy Miranda did not see Escudero's fists connect with any of the medical personnel, who quickly backed away from him. Deputy Miranda believed it was not common practice to restrain a person with handcuffs before medics administer Narcan because the handcuffs restrict medical personnel from rendering care. Deputy Mata tried to restrain Escudero, but Escudero got to his feet. Escudero tried to get away from Deputy Mata. Deputy Mata and Escudero were "tussling." Deputy Miranda did not see Deputy Mata punch Escudero. With so many people in the small room, and the movement of multiple bodies, Deputy Miranda's view was obstructed at times. Deputy Miranda believed Escudero would have struck someone if Deputy Mata had not physically restrained him. Deputy Miranda broadcasted over his radio that deputies were fighting with someone. Because this signified an emergency, additional Sheriff's units began to respond to the scene.

Deputy Miranda approached to help Deputy Mata and heard a popping noise from the Taser as Deputy Attlessey deployed her Taser at Escudero. The Taser darts struck Escudero's lower back. Deputy Miranda believed the Taser was effective at stopping Escudero because Escudero leaned over and fell to the ground. However, as soon as the Taser "disengaged," Escudero stood back up. Deputy Miranda then heard the Taser deployed a second time, but it was ineffective in subduing Escudero.

When Escudero stood back up, Deputies Mata and Miranda tried to restrain him. Deputy Mata grabbed Escudero's upper body and Deputy Miranda grabbed hold of Escudero's legs. During the struggle, Deputy Miranda was kicked in the knee by Escudero. Escudero knocked deputies Miranda and Mata off of him, stood up and faced Deputy Miranda. Deputy Miranda removed his RCB baton from his holster, extended it, and told Escudero to "get on the ground." Deputy Miranda's intention in pulling his baton was to gain compliance by striking Escudero; however, there were too many people in the small living room so Deputy Miranda did not use the baton for fear that he would strike someone other than Escudero. Escudero did not follow his command to get on the ground.

¹⁷ Deputy Miranda did not say specifically who he meant when he said, "we."

¹⁸ The deputies' commands were given repeatedly throughout the entire incident.

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Deputy Mata grabbed Escudero from behind, put his arm around Escudero's body, and they both fell to the ground. Escudero was face-down on the floor but Deputy Miranda was unsure whether Escudero was flat on his stomach. Deputy Miranda again tried to restrain Escudero's legs. Deputy Attlesey struck Ruben in the face with the Taser twice. Deputy Miranda did not recall if this occurred before or after Deputy Mata and Escudero fell to the floor. Deputy Miranda had his knee and both hands on Escudero's legs, and Deputy Mata tried to hold Escudero's torso down to the ground. Deputy Miranda weighed 230 pounds, but Escudero was able to kick him off his legs. Deputy Miranda was shocked at Escudero's strength. While Deputy Miranda continued trying to restrain Escudero's legs, Deputy Attlesey grabbed Deputy Miranda's Taser from his duty belt and deployed the Taser at Escudero. The Taser was ineffective and Escudero continued to fight against Deputies Miranda and Mata. Deputy Attlesey deployed Deputy Miranda's Taser again and again it was ineffective. Escudero did not appear to feel any pain.

While struggling to hold Escudero's legs, Deputy Miranda saw Deputy Mata and one of the firefighters attempting to get Escudero's left hand behind his back. Deputy Mata, with the help of one of the firefighters, placed a handcuff on Escudero's left wrist. However, Escudero's right arm was beneath his body, and they were unable to get Escudero's right hand cuffed. Deputy Attlesey struggled to pull Escudero's right arm from beneath his chest. Deputy Miranda handed her his RCB baton and told her to pry Escudero's right arm out from beneath him with the baton. Deputy Attlesey was able to get Escudero's right hand pulled from beneath him.

Deputy Mata and the firefighter struggled to maintain control of Escudero's left arm. Deputy Miranda knew Escudero could use the handcuff on his left wrist as a weapon if he pulled his arm free from Deputy Mata and the firefighter. Deputy Miranda transitioned from Escudero's legs to Escudero's left side to help Deputy Mata and the firefighter control Escudero's left arm. Deputy Miranda tried to pull Escudero's left arm behind his back but was unable to do it because Escudero pulled his arm away. Deputies Mata, Miranda, Attlesey, and the firefighter worked together and successfully handcuffed Escudero. Because of the struggle, they had to use two sets of handcuffs on Escudero. Even though handcuffed, Escudero continued to kick. Deputy Miranda tried to hold Escudero's legs and was kicked in the legs again. Deputy Miranda then placed his full body weight on Escudero's legs, but Escudero kicked him off. Escudero was incredibly powerful, and though Deputy Miranda was larger and heavier, Escudero easily overpowered him.

Escudero kept kicking and Deputy Mata told Deputy Miranda to grab his "hobble" to restrain Escudero's legs. Deputy Miranda reached over and grabbed the hobble from Deputy Mata's pants' pocket. Escudero wore baggy sweatpants which had fallen halfway down. Because Escudero was kicking, Deputy Miranda was unable to apply the leg restraints by himself. One of the medics helped remove Escudero's sweatpants and held his feet so that Deputy Miranda could place the leg restraints on Escudero's legs. The medics administered a sedative to Escudero, and within less than a minute, Escudero started to calm down. Escudero stopped resisting and stopped moving. The medics

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placed Escudero onto the MegaMover and carried him outside where they placed him on a gurney and then into the ambulance. Escudero was transported to the hospital.

Deputy Miranda did not kick or knee Escudero and he never saw anyone else kick or knee Escudero at any point. Deputy Miranda never heard Escudero say anything throughout the entire encounter. Deputies Miranda, Mata, and Attlesey were exhausted and breathing heavily after the incident. Deputy Miranda believed the struggle with Escudero lasted five minutes.

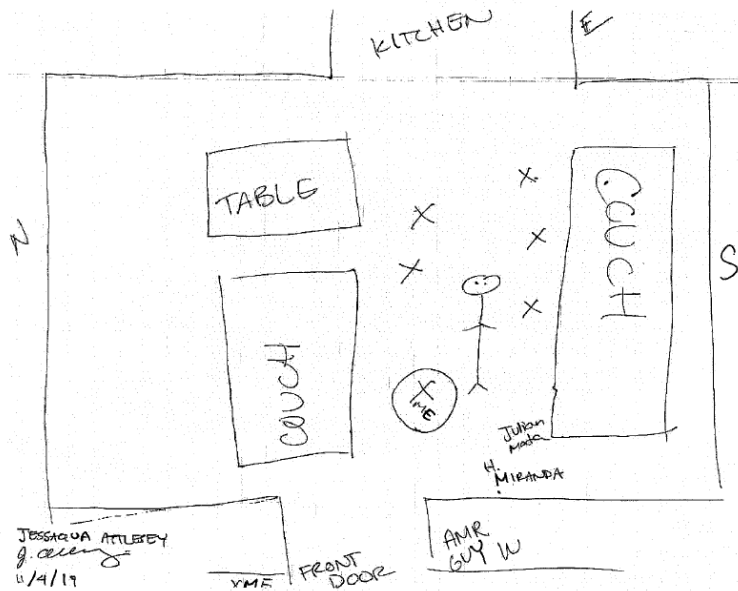
On November 4, 2019, at approximately 8:47 a.m., **Deputy Jessaqua Attlesey** was interviewed by Detectives Nicolas Craig and Jerry Moreno of the San Bernardino County Sheriff's Department.

Deputy Attlesey was employed by the San Bernardino County Sheriff's Department and had been a deputy sheriff for about three years. On October 19, 2019, Deputy Attlesey was on duty, assigned to patrol. Shortly after 9:00 a.m., Deputy Attlesey heard a call "toned-out" on her patrol radio for a medical aid call at [redacted] Monte Vista Street in Victorville regarding a suspected heroin overdose. A tone-out requires an immediate response for critical circumstances, such as someone who is in danger or in a medical emergency. Over the radio, Deputy Attlesey heard that Deputy Mata responded to the scene with his patrol unit's lights and sirens activated to get there as quickly as possible. Deputy Attlesey was familiar with the area for the call for service and knew it to be a high-crime neighborhood.

Deputies Mata and Miranda had been at the scene for some time. Deputy Attlesey was on patrol in the area, so she responded to the scene to check on her partners. The fire department had also been on the scene for a while. Because Deputy Attlesey expected she would only be there briefly, she did not activate her belt-recorder. Deputy Attlesey approached the residence. The residence was very small and multiple people, including firefighters and AMR medics, and Deputies Mata and Miranda, were inside. Deputy Attlesey was not needed, so she remained standing outside the house at the front door. From the front door, Deputy Attlesey saw Escudero on his back on the living room floor. Escudero had an oxygen mask on his face and his eyes were closed. Medical personnel were rendering medical care to Escudero.

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Deputy Attlesey's Scene Sketch¹⁹

About two minutes after Deputy Attlesey arrived, Escudero started to regain consciousness. It sounded like Escudero was vomiting. The medics told Escudero they were there to help him and that if he needed to vomit, he should roll over so he didn't choke. The medics tried to turn Escudero onto his side, but Escudero turned onto his back. Escudero appeared disoriented. The medics told Escudero they were there to help and to lie down. Escudero rolled over onto his stomach and got up onto his knees. Escudero stood up on his knees. Deputy Attlesey had been to multiple overdose calls before and had never seen a person who was "coherent" like Escudero. Deputy Attlesey thought to herself, "This is going a little too far. Like someone who overdosed shouldn't be this, you know, coherent, shouldn't be this awake." In her experience, when medics treated overdose patients, the person usually remained unconscious or was unable to be roused enough to even provide his or her name or any other information. The deputies and the medics repeatedly told Escudero they were there to help him and to lie down.

Deputy Attlesey stepped into the living room just as Escudero stood on his knees. Escudero faced the female AMR medic who was also on her knees tending to him. Escudero immediately started "throwing punches in the air," "right at the female paramedic's face." Escudero and the female medic were both on their knees, at eye level. Escudero did not swing his arms like he was trying to get people to move away from him. "He (Escudero) actually closed his fists and was, was punching at her (the female medic)." Escudero swung very hard, four or five times. It was obvious to Deputy Attlesey that

¹⁹ The X's north and south of Escudero marked the locations of the medical personnel. Deputy Attlesey was initially outside the residence on the front porch. When Escudero got up and tried to punch one of the medics, Deputy Attlesey entered the residence. The X with a circle and the word "me" depicted where Deputy Attlesey stood when she deployed the Taser.

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Escudero was trying to assault the female medic. The female medic wasn't hit because she quickly backed away from Escudero. All the other medics were "in close quarters with him (Escudero), so as soon as he started swinging, everyone just kind of dodged him, like moved quickly, a little quicker than," Escudero.

Deputy Mata tried to restrain Escudero. Deputy Mata approached Escudero from behind and tried to grab his arms, but Escudero was "huge, he was way bigger" than Deputy Mata. When Deputy Mata tried to gain control of Escudero's hands, "things just started escalating." Everyone in the room repeatedly told Escudero to lie back down and said, "We're just here to help you."

Escudero got to his feet. That was when Deputy Attlesey saw "how big he was." Escudero was tall and heavy set. Escudero was bigger than Deputy Mata. Escudero was "swinging his arms around," and had already tried to punch someone. Deputy Mata tried to restrain Escudero but was unable to do so. Deputy Attlesey had worked with Deputy Mata on prior calls and knew Deputy Mata was very strong and physically fit. Deputy Attlesey knew that Deputy Mata was capable, so when Escudero stood up despite Deputy Mata's attempts to keep him down, Deputy Attlesey "got really scared."

Deputy Mata and Escudero were "pushing and pulling on each other." It was very close quarters and there were so many people in the room, "body to body, bumping into each other." Escudero was given multiple verbal commands to "stop," and "stop fighting," by the medics and deputies, but he did not obey the commands. Deputy Attlesey heard an unidentified woman in the residence repeatedly say, "Ruben, stop fighting," but Escudero ignored her as well. Throughout the entire incident, the commands and pleas for Escudero to stop fighting continued, but Escudero never acknowledged any of them or gave any sign he was willing to comply.

Escudero overpowered Deputy Mata, and this scared Deputy Attlesey. Deputy Mata was breathing heavily. The firefighter and AMR medics "looked terrified, I could see it in them." "Everyone was trying to move out of the way."

Deputy Attlesey did not want anyone to get hurt, so she drew her Taser from her duty belt. Generally, deputies are supposed to give verbal commands for the Taser; however, based on her past experience, such warnings had allowed people to dodge the Taser. Because of this, Deputy Attlesey did not give commands ahead of time. Deputy Attlesey deployed the Taser, aiming for Escudero's back. The darts struck Escudero (who wore a t-shirt) in the back. The Taser was effective and did exactly what it was designed to do. Escudero fell onto his back. Deputy Attlesey was relieved that the Taser had effectively neutralized Escudero. Deputy Attlesey told Escudero twice, "Get on your stomach." Instead of turning onto his stomach, Escudero immediately sat up. Escudero sat up just as Deputy Mata approached him. Deputy Attlesey had never before seen a person who had been hit with the Taser "pop back up." This also scared Deputy Attlesey. Deputy Attlesey "never had anyone stand up after, after getting tased."

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Deputy Mata tried to keep Escudero down on the floor, but Escudero got to his knees and then to his feet. Deputy Attlesey tried to deploy the Taser a second time, but she only heard a “clacking noise,” which based on her experience, indicated the Taser was not going to work. Deputy Attlesey did not want to take her eyes off of Escudero to look down at her Taser. Knowing that her Taser was no longer an option, Deputy Attlesey threw it on the ground behind her toward the front door.

Deputy Miranda approached Deputy Attlesey’s left. Deputy Attlesey told Deputy Miranda to get his RCB out or to “do something,” because Deputy Mata was fighting Escudero alone. Deputy Mata was breathing hard. Deputy Attlesey saw that Escudero was stronger than Deputy Mata. Deputy Attlesey told Deputy Miranda, “Hey, time is getting away from us, so I’m going to get your Taser out.” Deputy Attlesey knew the Taser had worked at least once, so she tried it again with Deputy Miranda’s Taser. Escudero continued to fight with Deputy Mata. Deputy Mata continued to try to get Escudero down onto the ground. While fighting with Deputy Mata, Escudero asked, “Why are you hitting me?” Escudero was moving around a lot. Deputy Attlesey tried to get the Taser prongs to hit anywhere on Escudero’s upper body/chest area. Deputy Attlesey estimated she was seven feet away from Escudero. Only one dart hit Escudero. The Taser made the same “clacking noise” as hers had and had no effect on Escudero.

Escudero was overpowering Deputy Mata. Deputy Attlesey considered that Escudero might have other drugs in his system besides heroin, possibly PCP or methamphetamine, because he had “unlimited strength.” In her experience with people under the influence of heroin, the person was “mellow,” or “calm,” and “unable to keep their eyes open.” This was not the case with Escudero. Escudero “seemed like he was in a rage.” Escudero “appeared to be invincible,” had “full power over,” and was controlling Deputy Mata. As Deputy Mata struggled with Escudero, Escudero “closed the distance towards” Deputy Attlesey and she was pinned in by the couch, which was behind her. As Escudero overpowered Deputy Mata, Escudero got within arm’s reach of Deputy Attlesey. Deputy Attlesey did not want to trip over the couch and fall onto her back. The thought of falling onto her back and knowing that Escudero was stronger than her was terrifying. Deputy Attlesey knew she wasn’t as strong as Deputy Mata, who Escudero was overpowering.

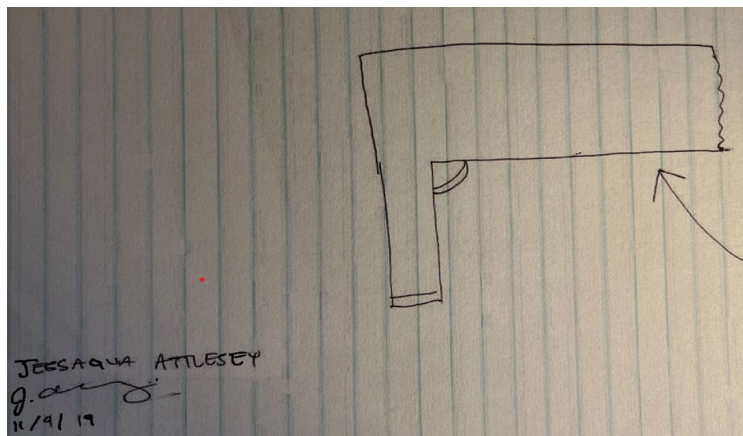
Deputy Attlesey saw Escudero “lifting up” Deputy Mata. Escudero got to one knee, (his left knee was on the floor, and his right foot was on the floor), and started to stand up. Deputy Attlesey believed they could not risk letting Escudero stand up. Deputy Attlesey feared that if Escudero stood up, he would hurt Deputy Mata, herself, or the other people in the living room. Deputy Attlesey was “getting tired,” and noticed that Deputy Mata was “getting winded.” Deputy Attlesey had recently watched video footage of one of her co-workers, another female deputy, who had been attacked about a month prior by a suspect who beat and disarmed the deputy. That deputy “ended up on her back and looking at the barrel of her own gun,” and Deputy Attlesey truly believed she was about to have the same fate. Deputy Attlesey feared that if Escudero defeated Deputy Mata, then Escudero would attack her next because she was the next closest person to Escudero. Deputy

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Attlesey believed Escudero posed a deadly threat to Deputy Mata, herself, and the others in the room. Deputy Attlesey knew that if Escudero defeated Deputy Mata, Escudero would gain access to Deputy Mata’s duty weapon, or any of the other weapons on his duty belt, and feared Escudero would use the weapons against everyone in the room.

Deputy Attlesey realized that if she did not act quickly and use what she had at the time, she could end up on her back with Escudero on top of her. Deputy Attlesey knew she was not strong enough to fight off Escudero, who was much stronger than her and Deputy Mata. Knowing the Taser deployments had been ineffective and that her hands alone would not phase Escudero, Deputy Attlesey used the Taser as an impact weapon to strike Escudero. Deputy Attlesey held the Taser by the handle, just as she would when firing it, and struck Escudero three to four times with the bottom of the Taser. Deputy Attlesey swung the Taser in a sideways motion. The first two strikes hit the right front side of Escudero’s face, near his nose. Escudero lowered his head. Deputy Attlesey believed Escudero was trying to avoid the strikes. Deputy Attlesey believed that the remainder of the strikes hit the top of Escudero’s head. Deputy Attlesey had never hit anyone with the Taser before and only did so out of desperation. Deputy Attlesey hoped the strikes would cause pain and disorient Escudero so they could gain his compliance. However, the strikes “didn’t even affect him; it didn’t even phase him.” Deputy Attlesey did not kick Escudero in the head at any time.



Deputy Attlesey’s Taser Sketch. The arrow marks the bottom area of the Taser that struck Escudero’s face.

Deputy Mata tried to place Escudero in a headlock. Escudero continued to ask, “Why are you guys hitting me? What are you doing?” Escudero would not follow commands to lie down and all attempts at gaining his compliance through pain had failed. Deputies Attlesey and Mata tried to get Escudero onto his stomach. Deputy Mata successfully got Escudero into a headlock, and he and Escudero fell to the floor. Escudero was on his stomach. Deputy Mata lay on Escudero’s back, breathing hard.

Never before had Deputy Attlesey witnessed someone who was able to fight like Escudero; he was incredibly strong. Once Deputy Mata was able to lie on top of Escudero,

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“We were able to get” Escudero’s left hand from underneath his stomach. Escudero’s right hand was still underneath his chest. Deputy Attlesey did not know whether Escudero had been searched. Nor did she know if the home had been searched. Based on her experience, it was not typical for a deputy to search a person or the inside the residence on a medical aid call. Deputy Attlesey had never done any searches on prior medical aid calls. Deputy Attlesey considered the possibility that Escudero was trying to obtain a needle or other weapon to use against the deputies. Based on her training and experience, Deputy Attlesey knew that people who overdose on heroin do so by injecting the drug with needles. Nearby medical equipment, like scissors and needles, brought in by the medics, could also be used by Escudero as a weapon.

With all her strength, Deputy Attlesey tried to roll Escudero over so she could pull his right arm from beneath his stomach, but Escudero was too strong for her. Deputy Miranda told Deputy Attlesey to use his RCB as a lever to “unhook” Escudero’s right arm from beneath his body. Deputy Attlesey slid one end of the RCB beneath Escudero’s armpit and used it as leverage to successfully pull Escudero’s right arm from beneath him. However, Escudero pulled his right arm back and placed it beneath his stomach again. Deputy Attlesey tried to use the tip of the RCB to apply pressure to a pressure point beneath Escudero’s ear. Deputy Attlesey’s hands and arms were exhausted, “inflamed” and “hot” from the struggle, so she knew her hands would not be strong enough on their own to apply pressure to a pressure point. Deputy Attlesey placed the tip of the RCB onto the pressure point area behind Escudero’s ear and pressed just like she would have with her thumb. As soon as she applied “a little bit of pressure,” Escudero turned his head and the RCB went straight to the ground. So, that too was ineffective. Deputy Attlesey again used the RCB as a lever to pull Escudero’s right arm from beneath his stomach again and was successful. At no time did Deputy Attlesey ever use the RCB to strike Escudero.

A firefighter or AMR member said he would help get handcuffs on Escudero.²⁰ Deputy Attlesey was too afraid to let go of Escudero’s right arm to grab her handcuffs. An unknown person grabbed Deputy Attlesey’s handcuffs. Escudero was “so big” and was resisting so much, that they had to use two sets of handcuffs. It took four people, Deputies Mata, Miranda, Attlesey, and a firefighter to get Escudero handcuffed.²¹ While the deputies held Escudero, the firefighter put the second set of handcuffs on. At that point, Deputy Attlesey told everyone to “slow down.” Deputy Attlesey was exhausted.

Escudero was still moving the lower half of his body, trying to roll over, and was kicking. Escudero was so strong that Deputy Attlesey thought he was going to break through the handcuffs. Deputy Mata asked for a “hobble,” (leg restraints) to minimize Escudero’s kicking. At that moment, Deputy Attlesey heard an AMR medic say he would administer a medication, the name of which she could not recall. As the deputies placed Escudero into leg restraints, an AMR medic gave Escudero a “shot in his left shoulder and within

²⁰ Deputy Attlesey did not know the name of the firefighter or AMR medic.

²¹ It actually took five people, but Deputy Attlesey likely did not see the second firefighter who helped.

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seconds,” Escudero stopped yelling and “slowed down.” To Deputy Attlesey, it looked like the fight was finally over.

Deputy Mata had blood on his uniform and so did Deputy Attlesey. Deputy Attlesey wasn’t sure if the blood was from Deputy Mata or Escudero. Deputy Attlesey checked Deputy Miranda for injuries, and open wounds and asked him to do the same to her. Deputy Attlesey also checked Deputy Mata’s duty belt to make sure none of his weapons were taken. The medics put Escudero on a tarp, picked him up, and then placed him on a gurney, and into the ambulance for transportation to the hospital.

On October 22, 2019, at approximately 5:15 p.m., **Sergeant John Rodriguez** was interviewed by Detectives Jerry Moreno and Eric Ogaz of the San Bernardino County Sheriff’s Department.

Sergeant Rodriguez was on duty as the day shift watch commander on October 19, 2019. At approximately 9:00 a.m., Sergeant Rodriguez heard the call for service at the Monte Vista Street address regarding a male subject who had possibly overdosed on heroin. Deputies Mata and Miranda aired over the radio that they had arrived on scene. Sergeant Rodriguez listened to the deputies’ updates over the air regarding the call. When Sergeant Rodriguez heard Deputy Miranda’s broadcast that they were involved in a fight with the subject, Sergeant Rodriguez responded to the scene. When a deputy broadcasts that they are in a fight, other deputies are to respond to assist. Sergeant Rodriguez was the last to arrive at the scene.

When Sergeant Rodriguez arrived, he saw Deputies Mata, Miranda, and Attlesey were out of breath and pale. Deputy Mata had blood on his face, forearms, uniform shirt and pants. Deputy Attlesey had blood on her shirt and pants. The three deputies looked like they had “gotten into a knock down drag out fight,” and like they had been fighting for their lives. Sergeant Rodriguez asked them if they were okay. The deputies said they were okay. However, later in the day, Sergeant Rodriguez saw minor swelling on Deputy Mata’s face. When asked, Deputy Mata complained of pain to his jaw and back. On October 22, 2019, Deputy Attlesey told Sergeant Rodriguez that her hands and forearms were hurting from the struggle with Escudero.

STATEMENTS BY EMERGENCY MEDICS AT SCENE²²

All Victorville Fire Department and American Medical Response (AMR) personnel were interviewed by detectives. The witness’ descriptions of the events were generally consistent with those given by the deputies involved.²³

²² Herein is a summary only. All reports submitted were reviewed, but not all are referenced here.

²³ During his interview with detectives on October 23, 2019, Fire Engineer Witness #3 reported that Deputy Attlesey kicked Escudero in the head four to five times. Witness #3 also stated that deputies held Escudero against the north wall. However, during Witness #3’s interview at the scene shortly after the incident occurred on October 19, 2019, Witness #3 did not report that any deputies kicked Escudero in the head or held him against the north wall. No other witnesses reported that Deputy Attlesey or any of the deputies kicked Escudero in the head or held him against the

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First-response medical personnel arrived at the incident scene shortly after Deputies Mata and Miranda. Fire medics brought their medical equipment into the residence. Once the deputies moved the patient (Escudero) to the living room, Fire Paramedic, Witness #4, assessed him for possible heroin overdose. Deputies advised they had found drug paraphernalia next to the Escudero. Escudero was unconscious and lying supine on the living room floor. Witness #4 continued his assessment and found Escudero's pupils were pinpoint, which was a sign of opiate (heroin) overdose. Escudero's respiratory drive was greatly diminished and inadequate. According to Witness #4, with opiate overdose, the first thing to occur is the suppression of respiratory rate, and once breathing stops, the heart will stop. Fire Engineer, Witness #3, assisted with patient ventilation via a bag valve mask.

Witness #4 began to administer Narcan into Escudero's nose at the rate of .5 milligrams every two minutes, for a total of 2 milligrams of Narcan. Throughout this, Witness #4 assessed Escudero's respirations and administered the Narcan based upon the effect it had on Escudero's respirations. Having seen prior patients awaken with Narcan and become violent, Witness #4 warned the deputies that Escudero may wake and become violent. Witness #4 gave this warning to deputies so they would be prepared. No policy or procedure existed that required a patient to be restrained before the administration of Narcan.

AMR medics brought in a MegaMover and began to move Escudero onto it by rolling him onto his side and tucking the tarp beneath his body. During the process, Escudero began to awaken. The deputies and medics identified themselves as Sheriff's Department and Fire Department, explained they were there to help him and told him to relax. Escudero began to dry heave, and medics sat him up so that he would not aspirate on his vomit. They then helped Escudero lie back down. This occurred twice. Escudero did not vomit.

Escudero became agitated and appeared to be confused. Medical personnel and deputies identified themselves again and told Escudero they were there to help him and to "calm down," and "relax." Escudero became combative and violent. Escudero got to his knees and swung his fist toward Witness #4's face. Witness #4 quickly stepped back. Escudero began "throwing punches" in a "violent and aggressive" manner to hurt anyone nearby. Deputy Mata returned punches and struck Escudero in the face several times, but this appeared to have no effect on Escudero. Medical personnel stepped back to get out of Escudero's way. Some of the medical personnel were forced to step up onto the couch. Witness #7, an EMT with AMR, quickly headed for the front door and exited the residence for her own safety.

north wall. Photographs of the scene reveal that the north wall was blocked by furniture, including a couch and table. Deputy Attlesley denied kicking Escudero in the head.

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Escudero continued to throw punches at the deputies and the medics, aiming for their faces.²⁴ Still fighting, Escudero asked, "Why are you hitting me?" Deputies told Escudero they were there to help him and to lie down. The deputies repeated these statements throughout the entire incident; however, Escudero refused to comply with any commands and refused to lie down and stop fighting.

Deputies Mata and Miranda tried to restrain Escudero but were unsuccessful. Escudero got to his feet. Deputy Attlesley arrived as Deputies Mata and Miranda struggled to restrain Escudero. Escudero continued trying to punch "anyone and everyone" in the small living room. Deputy Attlesley deployed her Taser at Escudero multiple times without success. Escudero continued fighting with the deputies. The struggle between Deputy Mata and Escudero moved closer to the north side of the living room and Deputy Attlesley was pinned up against the couch with little room to move. Deputy Attlesley struck Escudero in the head multiple times with the Taser after all other attempts to subdue him had failed. This appeared to have no effect on Escudero, who continued fighting. The Taser strikes caused lacerations to Escudero's head and face. Though Escudero began bleeding profusely, he seemed to feel no pain and continued fighting.

Witness #4 tried to move medical equipment out of the way and backed into a corner of the living room. The deputies were unable to gain any control of Escudero. Escudero's violent behavior prevented the medics from rendering medical care to him. Witness #4 and the AMR paramedic, Witness #5, quickly conferred and decided they would administer Versed to Escudero. Versed was used to subdue extremely combative patients. Witness #5 went outside to get the Versed from the ambulance and returned within one to two minutes. When Witness #5 reentered the living room, the deputies were struggling with Escudero, who was lying on his side on the floor. The deputies tried to place Escudero into handcuffs but were unable to do so. Escudero fought and kicked at the deputies and prevented them from handcuffing him.

Fire Captain, Witness #6, stood in the doorway between the living room and the kitchen. Witness #6 saw the deputies were unable to gain control of Escudero. Believing the deputies were losing the battle and needed help, Witness #6 stepped in to assist. Witness #6 placed his foot onto Escudero's back to try to hold him down for the deputies. Witness #6 used all his weight to try to hold Escudero down, but Escudero was still able to lift his body upward and continue to resist the deputies. Witness #6 reported that he was 6'1" tall and weighed 230 pounds and Deputies Mata and Miranda were also large men. According to Witness #6, even with Witness #6's assistance, the deputies were still unable to get Escudero handcuffed. Witness #6's body weight alone was not enough to hold Escudero down. Witness #6 used the top of the door jamb as force to press down harder on Escudero's back so the deputies could gain control of Escudero. Witness #6 believed Escudero may have had "some type of acid or PCP" in his system because he was unusually strong and seemed to feel no pain.

²⁴ Witnesses estimated that Escudero tried to punch deputies and medical personnel between 20 to 40 times throughout the incident.

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Fire Engineer Witness #3 held onto one of Escudero's arms and successfully placed one of the deputy's handcuffs onto one of Escudero's wrists. Escudero's free arm was tucked beneath his body. Escudero continued fighting against the deputies and firefighters who tried to hold him down by kicking his legs and trying to stand up. Deputy Attlesey used the baton as a lever to pull Escudero's arm from beneath his body. No deputies struck Escudero with the baton. The deputies, with the help of Witness #6 and Witness #3, were finally able to get handcuffs on both of Escudero's wrists. Two sets of handcuffs were used to then cuff both of Escudero's wrists together. Even though he was cuffed, Escudero continued to fight. Escudero kicked his legs and tried to break free. Witness #6 believed Escudero "was at the point to where he was gonna fight to the death." Witness #6 feared that Escudero would break the handcuffs and believed it would be unsafe to place Escudero into the ambulance for transport to the hospital.

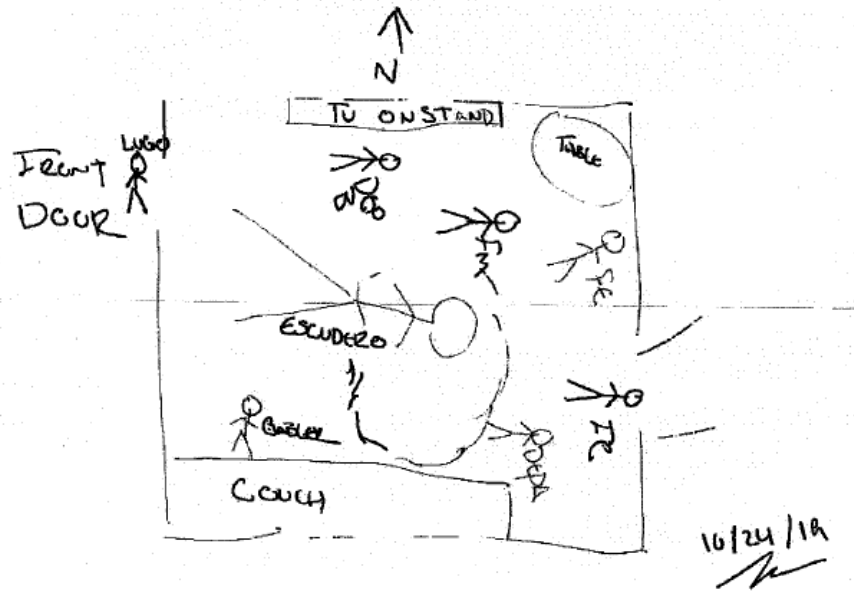
While the deputies and firefighters struggled to gain control of Escudero, Witness #5 injected 5 milligrams of Versed into Escudero's shoulder. There was little to no change in Escudero's behavior. Escudero continued to fight against the deputies and was unable to be transported to the hospital safely. Witness #5 injected a second 5 milligram dose of Versed about 30 seconds to 2 minutes after the first dose. Escudero calmed down and stopped fighting. Witness #5 assessed Escudero and found he was breathing. Witness #5 saw the deputies were finally able to bring both of Escudero's hands behind his back and secure the handcuffs on both of Escudero's wrists. Escudero was unresponsive and had significant trauma to his head and face. Witness #4 estimated Escudero had lost about 500 milliliters of blood. Medical personnel believed that if the deputies had not restrained Escudero, Escudero would have seriously injured them.

Witness #5 estimated that within 15 seconds of being handcuffed, Escudero was placed onto the gurney for transportation to the hospital. The hospital was a few blocks away from the residence. Witness #7 drove the ambulance while Witness #5 and Witness #4 rendered medical care to Escudero. Escudero's breathing was "agonal,"²⁵ so they assisted Escudero's respirations with a bag valve mask. Escudero had a pulse while en route to the hospital. The ambulance arrived at the hospital within a minute and a half to two minutes. As soon as they arrived at the hospital, Witness #5 and Witness #4 found Escudero had no pulse. CPR was initiated and Escudero's care was turned over to hospital medical staff.

²⁵ Agonal refers to a condition characterized by shallow, labored breathing, medically known as agonal respiration. www.sciencedirect.com.

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AMR Paramedic Witness #5 Scene Sketch. The curved, dotted line around Escudero's upper body represents blood on floor.

The medical personnel and the involved deputies were asked about their training and experience regarding the syndrome previously known as "excited delirium." Each of them had received training and previously encountered individuals who they believed had suffered from excited delirium.

As of January 1, 2024, the use of the term "excited delirium" to diagnose or attribute a person's demeanor to it is no longer permissible in a civil action. (Evidence Code section 1156.5.) However, Evidence Code section 1156.5 does allow a witness to describe the factual circumstances and the person's demeanor, conduct, and physical condition. The medical personnel and involved deputies were asked whether they believed Escudero had suffered from "excited delirium" during the encounter. With the exception of Deputy Attlesey, each witness answered in the affirmative. The witnesses stated their belief was based upon the fact that Escudero was extremely agitated and aggressive, physically violent, appeared to feel no pain, and was unusually strong. Though Deputy Attlesey did not believe Escudero had suffered from excited delirium on the date of the incident, she described his demeanor as extremely agitated, aggressive, violent, and stated that Escudero was unusually strong and seemed to feel no pain.

STATEMENTS BY CIVILIAN WITNESSES²⁶

On October 19, 2019, at approximately 9:20 a.m., Witness #2 and Witness #1 were interviewed by Deputy T. Kautz of the San Bernardino County Sheriff's Department.

²⁶ All reports of civilian statements made were reviewed, though not all are summarized here.

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Witness #1 lived at the residence where the incident occurred. Witness #1 had been a transient since the 1980's and sometimes allowed other transients to use his shower. On October 19, 2019, Witness #1 was asleep in his bed when Ruben (Escudero), whose last name neither he nor Witness #2 knew, knocked on his door. Witness #2 opened the door. Escudero came inside, tossed a burrito to Witness #1, and told him he got the burrito in Mexico. Escudero sat on a chair in Witness #1's bedroom. After a brief conversation, Escudero got up from the chair and went into the bathroom. Escudero returned to the bedroom and sat in the same chair in Witness #1's bedroom. About two minutes after Escudero sat down, Witness #1 saw Escudero slumped over in the chair with "shit" coming out of his mouth, "like people who died." Witness #1 called out to Witness #2 for help.

Witness #2 attempted to wake Escudero by hitting him in the face a couple times and putting ice in his pants. Escudero was still unresponsive, so they called 911. Deputies arrived and were able to move Escudero to the living room. Witness #1 stayed in his bedroom. There were two different walls between Witness #1's bedroom and the living room. Witness #1 heard Escudero "rampaging" and going "wild." Witness #1 believed Escudero was given Narcan by a deputy or paramedic but was unsure. Witness #1 heard Escudero continue to fight and deputies repeating "calm down." Due to the number of times the deputies had to repeat their commands to "calm down," and the sounds of fighting, Witness #1 believed Escudero would not listen to the deputies. Witness #1 stepped out of his bedroom and saw Escudero was being handcuffed. Witness #1 walked back into his bedroom where he remained.

According to Witness #2, the deputies were very helpful in the beginning. The deputies moved Escudero to the living room to allow paramedics to assist Escudero. Witness #2 was not in the living room and stayed away because she did not want to see anything. At first there was no fighting but then she heard Escudero say, "Let go," and "Why are you hitting me?" Witness #2 heard "a lot of ruckus" and heard the deputies continuously say, "Stop fighting," and "We are here to help." Witness #2 heard the sound of the Taser two times. Witness #2 also heard a paramedic say, "We are just here to help you." Witness #2 believed Escudero did not use heroin but was unsure what drugs he used. Witness #2 believed Escudero used "speed" and alcohol in the past.

INCIDENT AUDIO

Deputy Miranda's Belt-Recording²⁷

Deputy Miranda's belt-recording was 13 minutes, eight seconds long. The recording began as Deputy Mata said, "Sheriff's Department." Deputies Mata and Miranda spoke briefly with Witness #1 and Witness #2. Witness #2 told the deputies, "He was in the

²⁷ Herein is a summary; however, some portions are verbatim. Investigators played Deputy Miranda's belt recording during the interviews with Deputies Mata, Miranda, and Attlesey, and asked the deputies to explain what occurred during salient portions of the recording.

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bathroom, he sat down on that chair, and he fell out.” Deputy Mata asked, “Hey, bro you alright?” Deputy Miranda asked, “What’s his name?” Distant sirens were audible. Witness #2 replied, “Uh, knows him, uh, Ruben.” Deputy Miranda asked, “Ruben what?” Deputy Mata asked, “What’s his name?” Deputy Mata called out, “Ruben, hey Ruben,” multiple times. Witness #2 replied, “I don’t know his name, sir.” Witness #1 advised he did not know Ruben’s last name.

Escudero audibly moaned and snored sporadically as the deputies spoke to Witness #1 and Witness #2. Deputy Mata said, “Hey, Ruben. Wake up, homie.” Multiple tapping sounds were audible as Deputy Mata continued his efforts to rouse Escudero. Deputy Mata asked, “Do we know what he took?” Witness #1 replied, “Nope, ahh, just woke up and he was making noise. I know it woke me up.” Deputy Mata again tried to wake up Escudero by calling out his name. Deputy Miranda asked, “What did he take?” Witness #2 replied, “I’m not sure. It looks like pills, heroin, something.” Deputy Mata continued his efforts to wake Escudero by loudly saying, “Ruben. “Wake up.” Tapping sounds were audible.

Sirens were audible and grew louder. Witness #1 said, “There’s that spoon he was using.” Deputy Mata asked Witness #1 if he saw Escudero using the spoon. Witness #1 answered, “No, I seen it over there by him, when I woke up.” Deputy Miranda asked, “You want to guide in fire department?” Witness #2 replied, “Yes sir.” Deputy Mata said, “Hey, there’s uh, it looks like possibly an uncapped somewhere.” Deputy Miranda replied, “Yeah.” Deputy Mata advised, “Just be careful,” and continued trying to rouse Escudero by saying his name. Tapping sounds were audible. Escudero continued to make sporadic snoring sounds. Deputy Miranda told Deputy Mata to watch out, and Deputy Mata said, “I know.” Deputy Mata said, “Hey, wake up,” and repeatedly called Ruben by name. Sirens grew audibly louder as the fire department arrived on scene.

Deputy Mata continued his efforts to awaken Escudero. Deputies Mata and Miranda moved Escudero into the kitchen. Witness #2 said, “You guys. He’s back here beside the bathroom.” Deputy Miranda asked, “You want us to pull him out here?” An unidentified male firefighter replied, “Yeah, pull him out into the living room, that’d be cool.” Deputy Miranda warned, “Hey, just be careful there’s caps everywhere.” The male firefighter asked if they knew what Escudero had taken. Deputy Miranda replied, “No.” Witness #2 answered, “I don’t.” The firefighter asked, “How long he been down for.” Deputy Miranda said, “Just be careful with any needles.” Witness #2 said, “Five minutes. You guys got here really fast.” Escudero moaned.

Deputy Miranda advised, “He had Narcan outside too, so, they’re saying I think he might have hit himself with the Narcan as well.” A firefighter said he would administer Narcan to wake up Escudero. A firefighter said, “There you go. Not today, dirtbag.” A firefighter asked if Escudero had any identification. Deputy Mata replied that he had tried to find ID but found none. A firefighter said, “He might be pissed when he wakes up. I just gave him a lot.” Escudero continued to moan. A firefighter said, “There he goes. Hey.” Deputy

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Miranda said, "Here. Let me get over when you're done so I can, just in case he tries to fight." Fire replied, "He might." The firefighters and deputies conversed about what Escudero had taken and whether Narcan had been used prior to their arrival.

A female voice asked if anything was needed beside the MegaMover. Escudero continued to groan. A male voice said, "We'll get it all in the back. We'll be going to Victor." A female said, "Here we go." Medical personnel advised, "Regular sinus rhythm." Deputy Miranda asked, "Hey, you didn't find anything in his pockets, right." A firefighter replied, "Negative." A firefighter advised, "I'm gonna check his blood sugar real fast, bro." A firefighter asked, "[Name redacted], how much did you give him?" (Witness #4) replied, "2 IN." Deputy Miranda said, "Can you put out Fire, AMR 97?"²⁸

The firefighters discussed Escudero's vitals as they tested his oxygen levels, blood pressure, heart rate, and blood sugar. Escudero's oxygen levels were low and dropping. Regarding Escudero's blood sugar results, a firefighter said, "Good with that." A firefighter said, "I'm 169 over 108 of blood pressure, 94 on the pulse."

06:56²⁹

Fire: "Hold up, he's awake."

Fire: Hey, hey.

Fire: Wake up buddy. You're okay, you're okay. On your side.

Fire: Hey, don't puke on me.

Fire: On your side, on your side.

Escudero: What are you doing to me?

Fire: No, you're okay, you're okay. Lay down. Lay down.

Escudero: What.

Unknown: Lay down.

Fire: Lay down.

Attlesey: It's alright.

Fire: Hold on.

Fire: Stay down.

Escudero: What are you doing to me?

Fire: Just stay down, stay down.

Fire: What's your name, dude?

07:12

Fire: Stay down, homie. Alright. Chill out

Attlesey: I don't know.

Audio was muffled as Deputy Miranda's belt-recorder shifted with his movement.

07:24

Unidentified Male: Ruben, quit. Ruben!

²⁸ Law enforcement code 10-97, on scene.

²⁹ Times noted are from the media player bar.

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Fire: Chill out, homie.

Escudero: What are you doing to me?

Fire: Bro, just lay down. Hey.

Muffled sounds were audible as the belt-recorder shifted around with Deputy Miranda's movement.

07:34

Attlesey: Stop.

Fire: Lay, Ruben.

Miranda: Hey, chill out.

Beeping sounds from the medical equipment were audible and continued sporadically throughout the recording.

Escudero: Who the fuck are you?

Mata: Sheriff's Department, bro.

The sound of a Taser being deployed was audible

An unidentified voice said, "Chill out."

Escudero: Ouch, ouch.

Attlesey: Stop.

The sound of a Taser being deployed was audible

Escudero: Ouch.

Attlesey: Get on your stomach.

Escudero: What are you doing to me?

Unknown: Get on your stomach.

Attlesey: Get on your stomach.

Escudero: Uhhh.

Fire: You might want to do it again.

Unknown: Do it again. Do it again.

Unidentified Male: Ruben!

Escudero: What the fuck are you hitting me for?

Mata: Get on the fucking ground!

Miranda: Get on the ground!

Escudero: What the fucking (inaudible).

Mata: Get on the ground!

Miranda: Get on the ground, bro!

The sound of a Taser clacking was audible

Attlesey: Watch out, watch out, watch out.

Escudero: What did you sock me in the face for? What are you hitting me for? Ouch.

Attlesey: Trying to help you out.

The sound of a Taser clacking was audible

Escudero: Ouch.

Miranda: Hey.

Mata: Get on the ground!

Unknown: Watch out.

Unknown: Look out. Look out, look out. Hey, hey!

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Escudero: What are you hitting me?

Attlesey: Stop fighting us! Stop fighting us.

Mata: Put your hands behind your back.

Unknown: Ruben, stop!

Attlesey: Pull his legs out and he'll be good. Just sit on him. Just sit on him. Stop fighting us, dude. Stop!

Escudero: Mumbling.

Miranda: 17 Paul 22, 415 with one.

09:00

Fire: We're giving him some uh, Versed right now.

Fire: I think it kind of.

Attlesey: Watch out. (Breathing hard.)

Miranda: Okay, dude, he's uh, to get his arm out. (Breathing hard.)

The deputies' heavy, labored breathing was audible and continued until the end of the encounter.

Attlesey: Hold on.

Mata: Chill out, fool, chill out.

Escudero: I can't breathe.

Attlesey: Stop fighting us!

Escudero: Inaudible words.

Attlesey: We're here to help you, dude. We're here to help.

Escudero: Inaudible words.

Mata: Give me your hands, bro.

Escudero: Inaudible words.

Unknown: Give me your hands. Get over here, quick.

Escudero: Ugh. Inaudible words.

Mata: Got him, got him, got him.

Attlesey: Hurry, hurry.

Mata: Anybody else?

Attlesey: Swing--

Mata: Grab your other cuffs, girl.

Miranda: Here. Here, here, here, cuff him.

Attlesey: Inaudible words.

Mata: Other hand please.

Escudero: Uhhhh.

Attlesey: Just slow down, slow down, we're good.

Escudero: Moaning.

Attlesey: Okay.

Unknown: You got these?

Attlesey: Dude, you gotta.

Mata: Hey, you want to hobble him.

Attlesey: Stop.

Mata: Grab my hobble, it's gonna be on my pants.

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Miranda: Which one?

10:31

Mata: See it? Hobble?

Attlesey: Dude, we're here to help you.

Voices were audible in the background as the deputies and firefighters continued to struggle with Escudero.

11:08

Fire: You want some Versed on him?

Attlesey: Inaudible.

Fire: Yeah, we're gonna need something to calm him down.

Attlesey: Stop fighting us.

Fire: We got it right here.

Attlesey: Stop.

Fire: We got it right here, Martin.

Fire: Hold down.

Fire: Yep.

Attlesey: We're here to help you.

11:34

Fire: You guys good for a second?

Attlesey: Yeah.

Fire: We got it onboard. We're good.

Attlesey: Inaudible words.

Fire: We should be good. We should be good.

Attlesey: Inaudible words.

Multiple voices were audible.

12:09

Fire: Okay, let's get him to the hospital.

Taser Reports

Deputies Attlesey and Miranda both carried a Taser, Model X2, on the date of the incident. Each Taser was a two-shot, high impact polymer conducted energy weapon with an approximate weight of 1 pound with battery and two cartridges.

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Deputy Attlesey's Taser Report

<u>Sequence #</u>	<u>Local Time</u>	<u>Event</u>	<u>Cartridge Info</u>	<u>Duration (Seconds)</u>
1120	09:19:09	Armed	C1: 25' Standard C2: 25' Standard	
1121	09:19:11	Arc	C1: 25' Standard C2: 25' Standard	1
1122	09:19:12	Trigger	C2 Cartridge Sense Fault	5
1123	09:19:13	Trigger	C1: Deployed	5
1124	09:19:35	Trigger	C1: Deployed	5

Deputy Miranda's Taser Report

<u>Sequence#</u>	<u>Local Time</u>	<u>Event</u>	<u>Cartridge Info</u>	<u>Duration (Seconds)</u>
1918	09:19:15	Armed	C1: 25' Standard C2: Empty	
1919	09:19:16	Trigger	C1: Deployed	8
1920	09:20:20	Safe	C1: Deployed C2: Empty	65

DE-ESCALATION

The deputies and medics wore uniforms which identified them as law enforcement, firefighters, and medical personnel. Medical staff identified themselves to Escudero and attempted to reassure him. The deputies identified themselves as the Sheriff's Department. Deputy Mata told Escudero that they were there to help him and directed him to lie down so they could do so. The deputies and medical personnel made multiple

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attempts to reassure and calm Escudero. Despite their best efforts, Escudero got to his knees and went on the attack. Escudero repeatedly tried to punch medical staff.

The deputies gave Escudero multiple commands to “get on the ground,” and to “stop.” Escudero refused to follow any commands and continued fighting. Deputy Attlesey deployed her Taser at Escudero, which was effective at subduing him. When Escudero fell to the ground on his back, Deputy Attlesey ordered Escudero to get on his stomach. Deputy Mata approached Escudero to place him into handcuffs so the medics could safely transport him to the hospital, but Escudero got back up and continued fighting. Deputy Mata tried to control Escudero so he would not injure anyone, but Escudero fought against Deputy Mata. The deputies repeatedly ordered Escudero to “get on the ground,” but Escudero refused. The commands were clear, concise, and were repeated several times. Despite multiple commands, Escudero continued to fight. Instead of complying with the deputies’ commands, Escudero chose to fight. Every attempt made by deputies to stop Escudero from fighting was met with resistance.

DECEDENT

Ruben Escudero was pronounced deceased by Dr. Witness #8 at [redacted] Medical Center on October 23, 2019, at 8:48 p.m.

AUTOPSY PROTOCOL

Witness #9, Chief Forensic Pathologist for the Riverside County Sheriff’s Department Coroner-Public Administrator, conducted the autopsy of Ruben Escudero on October 29, 2019. Witness #9 determined the cause of death was acute methamphetamine, heroin, and phencyclidine toxicity. Witness #9 noted other significant conditions, such as hypertensive cardiovascular disease and multiple blunt force trauma associated with restraint maneuvers were present.

Representative sections of all major organs were taken. Heart blood, vitreous, gastric, liver, bile, and urine (from Foley catheter bag) were collected, and a comprehensive drug panel was requested.

INJURIES

There were four impact injuries (lacerations) to the parietal aspect/vertex of the scalp with concomitant subgaleal hemorrhage; no intracranial hemorrhage appreciated. The scalp lacerations had been previously stapled closed. The lacerations measured between 1 1/4” and 1 3/4” in length and were up to 3/16” wide with definitive tissue bridging noted within the depths of the injury.

Multiple minute abrasions were noted to be present on the nose, primarily, randomly distributed, measuring 3/16” to 3/8” in dimension and two similar abrasions to the left malar area, also measuring 3/16” to 3/8” A small parallel linear abrasion measuring up to

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1/4" in dimension, was present on the right ulnar extensor wrist, possibly consistent with the application of handcuffs. Examination of the flexor aspects of the radial portion of the left wrist revealed parallel abrasions measuring up to 1 3/4" in linear dimension also consistent possibly with the application of handcuffs. This extended to involve the extensor aspects for a distance of approximately 1/2".

Present to the right midback region, inferior to the scapula, located 21" from the top of the head, 4 1/2" and 6 3/4" right of the posterior midline respectively, was a pair of small punctuate possible puncture wounds. The injuries proper measured less than 1/8" in dimension and were located 2 1/4" distance away from one another. This paired set of injuries may have been secondary to the application of electroconductive device, although due to the interval from the possible application, healing had occurred obscuring the definitive determination.

NEURPATHOLOGY REPORT

Witness #10, Forensic Neuropathology Consultant for the Riverside County Sheriff's Department Coroner Bureau-Public Administrator, conducted the examination of brain, spinal cord, and complete cranial dura mater collected during Escudero's autopsy. Witness #10's final neuropathologic diagnosis was acute hypoxic ischemic encephalopathy, global, no evidence of trauma, no evidence of meningitis or encephalitis.

TOXICOLOGY REPORT³⁰

Toxicology results for Escudero's hospital blood sample were listed as follows:

- Methamphetamine 0.485 mg/L
- Amphetamine 0.053 mg/L
- Morphine 0.079 mg/L
- Codeine 0.005 mg/L
- Monacetylmorphine 0.020 mg/L
- Phencyclidine 0.001 mg/L
- Benzodiazepines Detected
- Midazolam 0.015 mg/L
- Ethyl Alcohol 0.000%
-

Toxicology results for Escudero's hospital urine sample were listed as follows:

- Methamphetamine 19.500 mg/L
- Amphetamine 1.770 mg/L
- Phencyclidine 0.011 mg/L

³⁰ Monacetylmorphine is an active metabolite of heroin. Phencyclidine (PCP) is a dissociative drug that is abused for its hallucinogenic effects. (DEA, US DOJ.)

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- Pseudoephedrine/Ephedrine Detected
- Phenylpropanolamine Detected

CRIMINAL HISTORY

Ruben Escudero has a criminal history that includes the following convictions:

2005, 245(a)(1) of the Penal Code, Assault With a Deadly Weapon, San Bernardino County case number FVI022205, a felony.

2008, 242 of the Penal Code, Battery, San Bernardino County case number MWV802998-1, a misdemeanor.

2010, 664/11377(a) of the Health and Safety Code, Possession of a Controlled Substance, San Bernardino County case number FVI1001897, a felony.

2018, 242 of the Penal Code, Battery, San Bernardino County case number 16CR-016177, a misdemeanor.

2015, 11364(a) of the Health and Safety Code, Possession of Controlled Substance Paraphernalia, San Bernardino County case number MVI1302396-2, a misdemeanor.

APPLICABLE LEGAL PRINCIPLES

PENAL CODE SECTION 148(a)(1). Every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined Division 2.5 (commencing with Section 1797) of the Health and Safety Code, in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is prescribed, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

PENAL CODE SECTION 69(a). Every person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon the officer by law, or who knowingly resists, by the use of force or violence, the officer, in the performance of his or her duty, is punishable by a fine not exceeding ten thousand dollars (\$10,000) or by imprisonment pursuant to subdivision (h) of Section 1170, or in a county jail not exceeding one year, or by both such fine and imprisonment.

A peace officer may use reasonable force to effect an arrest if he believes that the person to be arrested has committed a public offense. (Calif. Penal C. §835a.)³¹ Should the

³¹ All references to code sections here pertain to the California Penal Code, as they existed at the time of the incident. Significant modifications were made to sections 196 and 835a pursuant to Assembly Bill 392.

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arresting officer encounter resistance, actual or threatened, he need not retreat from his effort and maintains his right to self-defense or to use reasonable force to effect that arrest. (*Id.*) An arrestee has a duty to refrain from using force or any weapon to resist lawful arrest, if he knows or should know that he is being arrested. (Penal C. §834a.)

REASONABLENESS. Self-defense requires both subjective honesty and objective reasonableness. (*People v. Aris* (1989) 215 Cal.App.3d 1178, 1186.) The United States Supreme Court has held that an officer’s right to use force in the course of an arrest, stop or seizure, deadly or otherwise, must be analyzed under the Fourth Amendment’s “reasonableness” standard. (*Graham v. Conner* (1989) 490 U.S. 386, 395.)

The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on scene, rather than with the 20/20 vision of hindsight...The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.

(*Id.* at 396-397, citations omitted.)

The “reasonableness” test requires an analysis of “whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.” (*Id.* at 397, citations omitted.) What constitutes “reasonable” self-defense or defense of others is controlled by the circumstances. A person’s right of self-defense is the same whether the danger is real or merely apparent. (*People v. Jackson* (1965) 233 Cal.App.2d 639.) If the person’s beliefs were reasonable, the danger does not need to have actually existed. (CALCRIM 505.) Yet, a person may use no more force than is reasonably necessary to defend against the danger they face. (*Id.*)

When deciding whether a person’s beliefs were reasonable, a jury is instructed to consider the circumstances as they were known to and appeared to the person and considers what a reasonable person in a similar situation with similar knowledge would have believed. (*Id.*) When considered in the context of an officer-involved incident, this standard does not morph into a “reasonable police officer” standard. (*People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147.) To be clear, the officer’s conduct should be evaluated as “the conduct of a reasonable person functioning as a police officer in a stressful situation.” (*Id.*)

The *Graham* court plainly stated that digestion of the “totality of the circumstances” is fact-driven and considered on a case-by-case basis. (*Graham v. Connor, supra*, 490 U.S. at

(Assem. Bill No. 392 (2018-2019 Reg. Sess.) as Chaptered August 19, 2019.) However, those modifications do not apply retroactively. Even if they did, the conclusion of the analysis would be the same.

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396.) As such, “reasonableness” cannot be precisely defined, nor can the test be mechanically applied. (*Id.*) Still, *Graham* does grant the following factors to be considered in the “reasonableness” calculus: the severity of the crime committed, whether the threat posed is immediate, whether the person seized is actively resisting arrest or attempting to flee to evade arrest. (*Id.*)

Whether the suspect posed an immediate threat to the safety of the officer or others has been touted as the “most important” *Graham* factor. (*Mattos v. Agarano* (9th Cir. 2011) 661 F.3d 433, 441-442.) The threatened use of a gun or knife, for example, is the sort of immediate threat contemplated by the United States Supreme Court, that justifies an officer’s use of deadly force. (*Reynolds v. County of San Diego* (9th Cir. 1994) 858 F.Supp. 1064, 1071-72 “An officer may reasonably use deadly force when he or she confronts an armed suspect in close proximity whose actions indicate an intent to attack.” (*Id.* at 1072.) Again, the specified factors of *Graham* were not meant to be exclusive; other factors are taken into consideration when “necessary to account for the totality of the circumstances in a given case.” (*Mattos v. Agarano, supra*, 661 F.3d at 441-442.)

When undertaking this analysis, courts do not engage in *Monday Morning Quarterbacking*, and nor shall we. Our state appellate court explains,

Under *Graham* we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes ‘reasonable’ action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure.

(*Martinez v. County of Los Angeles, supra*, 47 Cal.App.4th 343, citing *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347.) Specifically, when a police officer reasonably believes a suspect may be armed or arming himself, it does not change the analysis even if subsequent investigation reveals the suspect was unarmed. (*Reese v. Anderson* (5th Cir. 1991) 926 F.2d 494, 501; *Anderson v. Russell* (4th Cir. 2001) 247 F.3d 125, 129, 131, emphasis added.)

The Supreme Court’s definition of reasonableness is, therefore, “comparatively generous to the police in cases where potential danger, emergency conditions or other exigent circumstances are present.” (*Martinez v. County of Los Angeles, supra*, 47 Cal.App.4th at 343-344, citing *Roy v. Inhabitants of City of Lewiston* (1st Cir. 1994) 42 F.3d 691, 695.) In close-cases therefore, the Supreme Court will surround the police with a fairly wide “zone of protection” when the aggrieved conduct pertains to on-the-spot choices made in dangerous situations. (*Id.* at 343-344.) One court explained that the deference given to police officers (versus a private citizen) as follows:

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Unlike private citizens, police officers act under color of law to protect the public interest. They are charged with acting affirmatively and using force as part of their duties, because ‘the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it.

(*Munoz v. City of Union City* (2004) 120 Cal.App.4th 077, 1109, citing *Graham v. Connor*, [supra] 490 U.S. 386, 396.)

NON-LETHAL FORCE. This does not suggest that anything *less than* deadly force requires no justification. “[A]ll force—lethal and non-lethal—must be justified by the need for the specific level of force employed.” (*Bryan v. MacPherson* (9th Cir. 2010) 630 F.3d 805, 825, citing *Graham v. Conner* (1989)] 490 U.S. [386], 395.) The *Graham* balancing test, as described *supra*, is used to evaluate the reasonableness of lethal and non-lethal force, alike. (*Deorle v. Rutherford* (9th Cir. 2001) 272 F.3d 1272, 1282-83.)

Use of a taser or a shotgun-fired bean bag has been categorized as intermediate non-lethal force. (*Bryan v. MacPherson*, *supra*, 630 F.3d at 825 [taser]; *Deorle v. Rutherford*, *supra*, 272 F.3d at 1279-80 [bean bag].) This designation exists despite the fact that such force is *capable* of being used in a manner causing death. (*Id.*) To be deemed “lethal force” the instrumentality must be force that “creates a substantial risk of death or serious bodily injury.” (*Smith v. City of Hemet* (9th Cir. 2005) 394 F.3d 689, 693.); use of a taser or shotgun-fired bean bag both fall short of this definition. (*Bryan v. MacPherson*, *supra*, 630 F.3d at 825; *Deorle v. Rutherford*, *supra*, 272 F.3d at 1279-80.)

Similarly, the use of a trained police dog does not qualify as “deadly force” as it too has fallen short of the lethal force definition set forth in *Smith*. (*Thompson v. County of Los Angeles* (2006) 142 Cal.App.4th 154, 165-169.) In *Robinette v. Barnes* (1988) 854 F.2d 909, the court found “that the use of a properly trained police dog to apprehend a felony suspect does not carry with it a ‘substantial risk of causing death or serious bodily harm.’” (*Id* at p. 912, fn. omitted.)

Beyond the traditional *Graham* factors, and particularly in the use of non-lethal force, the failure of officers to give a warning and the subject’s mental infirmity can also be considered when assessing the totality of the circumstances. (*Bryan v. MacPherson*, *supra*, 630 F.3d at 831; *Deorle v. Rutherford*, *supra*, 270 F.3d at 1283-84.)

Failure to pass-muster under *Graham* can deem the use of non-lethal force as “excessive” and therefore violate the Fourth Amendment. (*Id.*) On the other hand, active resistance could justify multiple applications of non-lethal force to gain compliance and would not be deemed “excessive” nor violate the Fourth Amendment. (*Sanders v. City of Fresno* (9th Cir. 2008) 551 F.Supp.2d 1149, 1182 [not excessive to use physical force and tase an unarmed but actively resisting subject with 14 taser cycles where such was needed to gain physical control of him].)

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ANALYSIS

Escudero was under the influence of a potent combination of methamphetamine, heroin, and PCP at the time of his encounter with law enforcement and emergency medical services. After completing Escudero's autopsy, Witness #9 determined Escudero's cause of death was acute methamphetamine, heroin, and phencyclidine toxicity. During the subsequent neuropathological examination, Witness #10 found no evidence of trauma to Escudero's brain, spinal cord, or cranial dura mater. Escudero received injuries to his head and face during his fight with law enforcement. However, these injuries did not cause his death.

After being summoned to the residence, emergency medical personnel administered Narcan to Escudero. This rapidly reversed the opioid overdose and restored Escudero's breathing. However, Escudero still needed emergency care because the Narcan was only a temporary fix.³² For that, ambulance transport to the nearest hospital was critical. Before Escudero could be moved to the ambulance, he regained consciousness. Escudero's initial confusion quickly escalated to anger and aggression. After Escudero repeatedly tried to get up, Deputy Mata stepped in to help the medics. Deputy Mata identified himself and told Escudero he needed to stay lying down so they could help him. Escudero refused to cooperate and continued trying to get up. Medical personnel, the deputies, and even Escudero's friends repeatedly told Escudero to stay lying down and tried to reassure him by telling him they were trying to help. However, their words fell on deaf ears. The methamphetamine, heroin, and PCP left Escudero in a state of extreme impairment. All efforts to reassure and subdue him likely failed for this reason.

When Escudero got to his knees, balled his fists, and started taking swings at the medics, Deputy Mata stepped in to protect them. Deputy Mata tried to restrain Escudero with his hands, to no avail. Escudero got to his feet and continued his attack. Witnesses estimated Escudero tried to punch the medical personnel and deputies between 20 and 40 times throughout the incident. Deputy Attlesey deployed her Taser and, though initially effective at subduing Escudero, Escudero quickly got back up and resumed fighting. Deputy Miranda pulled his baton from his duty belt and ordered Escudero to "get on the ground," but Escudero refused. Deputy Attlesey then deployed her Taser a second time, and Deputy Miranda's Taser twice, but both failed to stop Escudero.

Deputy Mata grabbed Escudero, and they fell to the ground. Deputy Mata struggled to restrain Escudero, but Escudero was stronger. As Escudero began to stand with Deputy Mata on his back, Deputy Attlesey quickly realized Deputy Mata was in serious danger of being overpowered. If Escudero succeeded, he would gain access to Deputy Mata's weapons. Deputy Attlesey reasonably feared that Escudero would use those weapons, including Deputy Mata's handgun, against those in the living room. Deputy Attlesey also reasonably feared that Escudero would attack her if he overpowered Deputy Mata.

³² Naloxone (the generic name for Narcan) works to reverse opioid overdose in the body for only 30 to 90 minutes, but opioids remain in the body longer than that. (National Institute on Drug Abuse, nida.nih.gov.)

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Deputy Attlesey knew that she was no match for Escudero, for he was significantly stronger and outweighed her by a large margin.

Out of options, Deputy Attlesey used her Taser as an impact tool and struck Escudero in the face and head. Deputy Attlesey hoped the blows would cause pain and distract Escudero enough to encourage compliance with their commands. However, the blows seemed to have no effect on Escudero. To the fire captain, Escudero appeared to be willing to fight to the death. In the words of Escudero's friend, Witness #1, Escudero was on a rampage. This rampage did not end until the EMT injected a powerful sedative into Escudero's arm.

Whether the suspect posed an immediate threat to the safety of the officer or others has been touted as the "most important" *Graham* factor. Clearly, Escudero posed an immediate threat to the deputies, the firefighters, the medical personnel, and the civilians in the residence. Escudero was actively fighting with Deputy Mata and was gaining the upper hand. That the threat was imminent is clear. Escudero was engaged in physical combat, wrestling with Deputy Mata on the floor, their bodies touching. Escudero had not been searched for weapons. Had Escudero pulled a gun, a knife, or uncapped syringe, the close proximity would have ensured that his weapon would have met its mark before the deputies could react.

Deputy Attlesey's use of the Taser as an impact weapon, a less lethal force, was neither unreasonable nor excessive given the circumstances she faced. Deputy Attlesey used the only tool at her disposal, short of her handgun. Deputy Attlesey's use of the Taser as an impact weapon was therefore reasonable in light of the circumstances facing the deputies.

Deputy Miranda grabbed onto Escudero's legs in an effort to keep him down. Deputies Mata, Miranda, and Attlesey held onto Escudero and tried to handcuff him. This was reasonable and necessary because Escudero posed a significant threat to everyone, including himself. Though Deputies Mata, Miranda, and Attlesey worked together, Escudero thwarted their efforts. Because of this, two of the firefighters stepped in to help the deputies. It took the strength of five people to successfully place Escudero into handcuffs. Even after being handcuffed, Escudero kicked and tried to get up. Because of this, the deputies were left with little choice but to place leg restraints on Escudero's legs. This, too, was reasonable. Escudero's continued resistance left little option. For everyone's safety, including his own, the leg restraints were necessary.

Once Escudero was successfully handcuffed and sedated by medical personnel, none of the deputies used any force against Escudero. Escudero was quickly loaded into the waiting ambulance and transported to the nearest hospital.

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CONCLUSION

Based on the facts presented in the reports and the applicable law, Deputy Julian Mata's use of force was a proper exercise of Deputy Mata's right of self-defense and defense of others, and therefore, his actions were legally justified.

Based on the facts presented in the reports and the applicable law, Deputy Humberto Miranda's use of force was a proper exercise of Deputy Miranda's right of self-defense and defense of others, and therefore, his actions were legally justified.

Based on the facts presented in the reports and the applicable law, Deputy Jessaqua Attlessey's use of force was a proper exercise of Deputy Attlessey's right of self-defense and defense of others, and therefore, her actions were legally justified.

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