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September 21, 2020

Chief Chris Magnus  
Tucson Police Department  
270 S. Stone Ave.  
Tucson, AZ 85701

Re: Tucson Police Department In-Custody Death Investigation 2004210014, Former Officers Jonathan Jackson (Badge # 100741), Samuel Routledge (Badge # 103077), Ryan Starbuck (Badge #101975), and Officer Jerin Stoor (Badge #102313).

Dear Chief Magnus:

The Pima County Attorney's Office completed its independent review of the in-custody death investigation in which Tucson Police Officers detained Carlos Adrián Ingram-Lopez and he became unresponsive and died at the scene. Deputy County Attorney Rick Unklesbay and Chief Trial Counsel Nicol Green conducted the investigation and review in conjunction and consultation with County Attorney Barbara LaWall, Chief Deputy Amelia Cramer and Chief Criminal Deputy David Berkman.

Our review is strictly limited to a decision on whether there is sufficient evidence to file criminal charges against Officer Jerin Stoor, and former Officers Jonathan Jackson, Samuel Routledge, and Ryan Starbuck.<sup>1</sup> The scope of our legal inquiry is narrow and limited.

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<sup>1</sup> Jonathan Jackson, Samuel Routledge and Ryan Starbuck resigned from the Tucson Police Department after the incident.

We only address whether sufficient admissible evidence exists to prove beyond a reasonable doubt that a crime was committed under Arizona law, and whether there is sufficient evidence to support the filing of criminal charges in connection with the death.

In making this determination, we reviewed and assessed the facts, and applied Arizona statutes defining criminal offenses. We also considered whether the use of physical force and/or deadly physical force and/or any other acts or omissions were or were not legally justified as a defense to criminal liability under Arizona law.

Issues of civil liability or violations of departmental policies regarding use of force and de-escalation tactics and procedures are not the subject of our inquiry.<sup>2</sup> Our review involves a substantially different standard and a higher burden of proof than what is applied to personnel disciplinary matters or civil liability.

The County Attorney's Office received and reviewed numerous written reports and other items supplied by Detective Heriberto Orozco, of the Tucson Police Department, including: the 911 call, the call texts received by officers on their mobile data terminals, audio communications, police reports, the autopsy and toxicology reports, witness statements, photographs, and video recordings. For legal reasons, we were unable to review the statements given by the officers to internal affairs.<sup>3</sup> We also conducted our own independent supplemental investigation, including requesting and obtaining additional information and materials needed for a thorough and complete assessment and review.

We interviewed Chief Medical Examiner Dr. Gregory Hess, former Chief Medical Examiner Dr. Bruce Parks, and Dr. Ashley Lukefahr, the forensic pathologist who performed the autopsy and authored the autopsy report. We learned that their investigation into the cause and manner of Mr. Ingram-Lopez' death included viewing of the video footage obtained from the officers' body worn cameras, although that was not mentioned in their autopsy report. Furthermore, we learned that the autopsy findings were discussed and reviewed by a panel of forensic pathologists employed by the Office of the Medical Examiner before completion of their official autopsy report.

Additionally, we requested and received information from the Southern Arizona Law Enforcement Training Center and Tucson Police Department Advanced Training Coordinator Justin Kneup about the specific training on relevant topics received by the four officers throughout their careers. Before our meeting with Officer Kneup, he viewed the body worn camera video footage of the incident and

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<sup>2</sup> In this case policies and procedures were reviewed and considered only to determine potential criminal negligence or recklessness and what a reasonable officer would do under the same circumstances.

<sup>3</sup> The officers' statements made in connection with a personnel investigation were not reviewed, because such review is not permissible in connection with a criminal investigation. It would violate their rights under the Fourteenth and Fifth Amendments to the U.S. Constitution, as explained by the Supreme Court in *Garrity v. New Jersey*, 385 U.S. 493, 499-500 (1967).

informed us about whether the conduct of the four officers was consistent with the training they received.

We also retained Dr. Edward D. French, Ph.D., Professor Emeritus of Pharmacology at the University of Arizona, College of Medicine to provide information on the pharmacology and toxicology associated with cocaine use, and whether the use of cocaine may have contributed to Mr. Ingram-Lopez' sudden cardiac arrest and death. Before authoring his report, Dr. French reviewed the 911 call, the body worn camera footage of the four officers, the statement provided by Mr. Ingram-Lopez's girlfriend describing his drug use and demeanor in the days leading up to his death, and the autopsy and toxicology report.

More recently we became aware that an attorney hired by Mr. Ingram-Lopez' family retained a forensic pathologist, Dr. Phillip Keen, to conduct a second autopsy. We reviewed that autopsy report and the amended autopsy report authored by Dr. Keen. We also reviewed information pertaining to the filing of criminal charges against Dr. Keen alleging that he made prior false statements and committed perjury, as well as his acceptance of responsibility in connection with a diversion agreement he entered into regarding those charges.

We requested, through the family's attorney, that we be granted an interview with Dr. Keen to ask some follow up questions; however, the attorney informed us Dr. Keen would only agree to meet with us with the condition that we avoid asking him certain questions. We are informed and understand that Dr. Keen's diversion agreement prohibits him from testifying in a criminal case.

After reading Dr. Keen's reports, we re-contacted Dr. Hess, Dr. Parks, and Dr. Lukefahr to inquire whether Dr. Keen's opinion in any way impacts their opinion of the cause and manner of death, and they provided us with their analysis and opinion in that regard.

#### **Facts Involving the Officers' Conduct:**

Based on our review of the materials supplied by Detective Orozco and the additional information obtained during our supplemental investigation, we understand the salient facts to be the following:

On April 21, 2020, at 1:11 a.m., Carlos Ingram-Lopez' grandmother called 911 from her townhome. She reported that her grandson was "crazy" and on drugs, that he had no clothing on, and she wanted him out of her house. She periodically repeated this information. During the call, the grandmother could be heard interacting with her grandson in Spanish, but not answering the dispatcher's questions. Both Ms. Ingram and Mr. Ingram-Lopez could be periodically heard yelling in the background during the call. Ms. Ingram was sobbing at times. The 911 call lasted 12 minutes.

The dispatcher advised officers on duty of the 911 call, informing them that he had an open line where the caller was yelling something about needing someone out of her

house. Officers were dispatched to the residence at 1:14 a.m. As the officers were in route, they continued to receive information from the dispatcher. The officers were advised that the grandson was intoxicated, not wearing any clothes, and that the caller kept repeating that her grandson is "going crazy." The officers were also told that the grandson had a "10-82," which is a stop and arrest alert, calling upon officers to arrest the grandson for a prior incident of domestic violence. Finally, they were told that the call was still an open line with yelling heard in the background, and that the caller was "refusing to separate."

Officers Jackson, Routledge, and Starbuck arrived outside the townhome at 1:20 a.m. As they approached the screen door entry into the courtyard, Ms. Ingram ran out of the courtyard and past the three officers. Mr. Ingram-Lopez was standing in the courtyard facing the door into the garage and was naked. Mr. Ingram-Lopez rushed into the garage as Officer Routledge yelled to him to "get on the fucking ground." As Officer Routledge followed Mr. Ingram-Lopez into the garage, the family dog nipped the officer on the leg, causing him to stop momentarily at the door. Officer Starbuck charged his taser, preparing to use it on the dog if necessary. Ms. Ingram came back into the courtyard and was able to separate the dog from the officers.

Once the dog was removed, Officer Routledge drew his gun and entered the dark, single car garage in which a car occupied much of the space. Officer Routledge yelled again at Mr. Ingram-Lopez to "get on the fucking ground." Mr. Ingram-Lopez yelled "please, please" and then "no, no, no" and then "ok, ok." Officer Routledge went around the car to the far side of the garage between the driver's side and the far wall. Officer Jackson entered the garage and went between the passenger side of the car and the near wall. Officer Starbuck, still armed with a taser, entered the garage along the near side wall behind Officer Jackson.

The three officers gave verbal commands ordering Mr. Ingram-Lopez to get on the ground, with Officer Routledge using profanity. Mr. Ingram-Lopez said, "I'm sorry, I'm sorry," as the officers got near him. He was on his knees and had one hand on the garage floor between the rear bumper of the car and the closed garage door. Officer Jackson was near Mr. Ingram-Lopez' head. Officer Routledge was near his feet. Officer Starbuck was next to Officer Jackson armed with a taser.

Officer Routledge holstered his gun. The officers repeatedly ordered Mr. Ingram-Lopez to get down on the ground. Mr. Ingram-Lopez started to lie on the ground but then hesitated and looked back at Officer Routledge, whereupon both Officer Jackson and Officer Routledge once again yelled "get on the ground."<sup>4</sup>

The officers continued to give verbal commands to Mr. Ingram-Lopez to get on the ground with Officer Starbuck directing him to get on his stomach. Mr. Ingram-Lopez responded with, "ok please" and "ok, ok, ok." Officer Jackson asked Mr. Ingram-Lopez to give him his hand. As Officer Jackson grabbed hold of one of his arms, Mr. Ingram-

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<sup>4</sup> The body worn camera footage from the three officers is very dark, making it difficult to determine exactly what is occurring.

Lopez immediately began screaming hysterically. He screamed, "no, it's in the ceiling," and "please no." Officer Starbuck warned Mr. Ingram-Lopez that he would tase him as he assisted Officer Jackson in getting control of Mr. Ingram-Lopez' arms.

After Officer Jackson grabbed Mr. Ingram-Lopez' arm, there was a physical struggle to gain control of both of Mr. Ingram-Lopez' arms so that he could be detained in handcuffs. This struggle lasted about one minute and 20 seconds. None of the officers used any level of force greater than physical restraint on Mr. Ingram-Lopez.

Officer Routledge had control of Mr. Ingram-Lopez' legs while Officers Jackson and Starbuck tried to get control of his arms. Officer Stoor arrived and assisted Officer Routledge with controlling Mr. Ingram-Lopez' legs. Mr. Ingram-Lopez continued to scream. At times he said "ok, ok," and "I'm sorry." Other times he screamed "no," and "ahh." The officers tried to calm him down, but Mr. Ingram-Lopez continued to scream. The officers secured one of Mr. Ingram-Lopez' wrists in handcuffs. They continued to try to secure his other wrist as Mr. Ingram-Lopez continued to scream and resist. The officers used a second pair of handcuffs and were able to secure his other wrist.

After Mr. Ingram-Lopez was handcuffed, the officers kept him on his stomach, still naked, with his hands secured behind his back. Officer Stoor stood up and walked over to Ms. Ingram and began an interview with her inside the residence. Officer Routledge remained kneeling next to Mr. Ingram-Lopez' legs, holding them down. Officer Jackson was kneeling with one knee on the ground and his lower left leg across Mr. Ingram-Lopez' back. Officer Starbuck was standing up near Mr. Ingram-Lopez' head.

Mr. Ingram-Lopez continued to scream, repeatedly saying "no" and "I'm sorry." He also pleaded numerous times in English and Spanish that he wanted some water, and that he wished he had water. He also called for his grandmother. In addition, he made statements like, "Tío, I'm sorry Tío," and "I love Sofie, I love everybody, I'm sorry" and "I love baby, anybody..."

Officer Jackson calmly urged him multiple times to relax. The officers were aware by this time that Mr. Ingram-Lopez had taken some type of drug, asking him what he "was on" and commenting on the radio that he "is on something."

Lying between the rear bumper of the car and the closed garage door, Mr. Ingram-Lopez remained on his stomach with his arms handcuffed behind his back. He repeatedly requested water, and at one point he said, "Oh shit, I can't breathe, can I please have some water."

None of the officers responded to Mr. Ingram-Lopez. Officer Jackson asked him to relax multiple times and requested a blanket because Mr. Ingram-Lopez was naked. The officers then began to strategize aloud about how best to get Mr. Ingram-Lopez into a patrol vehicle and to the jail. As the officers talked amongst themselves, Mr. Ingram-Lopez continued to request water and ask the officers why they were doing this.

As Mr. Ingram-Lopez continued to yell, Officer Routledge yelled, "calm the fuck down," and Officer Jackson said "tranquillo, tranquilo." Mr. Ingram-Lopez began to physically struggle with the officers again, but only for a few seconds. Officer Routledge lay down on his legs while Officer Jackson controlled his torso. Officer Routledge warned Mr. Ingram-Lopez that he would be tased if he continued to struggle.

Officers Starbuck and Stoor began attempts at opening the garage door. Officer Routledge and Officer Jackson continued to restrain Mr. Ingram-Lopez on his stomach with his arms handcuffed behind his back. At some point, for an unknown reason, Mr. Ingram-Lopez said, "fucking shit stop doing that dude." When the garage door was opened Mr. Ingram-Lopez became hysterical and yelled "aww shit" and then words that are difficult to discern.<sup>5</sup>

Once the garage door was open, the four officers prepared to transport Mr. Ingram-Lopez to the jail pursuant to the domestic violence stop and arrest alert. Officer Stoor moved patrol vehicles around in preparation for transport. Officer Starbuck retrieved clothing and a towel from Ms. Ingram. Officer Jackson continued to control Mr. Ingram-Lopez' torso. He then placed a plastic emergency blanket and the towel over Mr. Ingram-Lopez, draping some of it over Mr. Ingram-Lopez' head. Officer Routledge continued to restrain his legs.

As the first plastic blanket was being placed over Mr. Ingram-Lopez, he began whining. He then began to make guttural noises that sounded like he was clearing mucous from his throat or gargling or gagging. Officer Andrew Fedor arrived and supplied additional plastic emergency blankets and a spit sock hood. Officer Jackson then put two more plastic blankets over Mr. Ingram-Lopez, including his head. Mr. Ingram-Lopez continued to scream and yell "no, no, no," "I'm sorry," and "oh shit." He also repeatedly yelled "Nana," asking for his grandmother, and "por favor" (please) and repeatedly asked for water in both Spanish and English.

Officer Starbuck put the spit sock over Mr. Ingram-Lopez' head. Mr. Ingram-Lopez continued to make noises for approximately two minutes after the spit sock was placed over his head. Officer Fedor then left the scene. Officer Jackson and Officer Routledge still had Mr. Ingram-Lopez restrained on his stomach with his arms handcuffed behind his back. Officer Starbuck removed one of the blankets to put in the patrol vehicle that was being prepared for the transport of Mr. Ingram-Lopez to the jail. Both Officers Starbuck and Stoor placed plastic blankets over the back seat of Officer Stoor's patrol vehicle.

Shortly after Officer Fedor left the scene, the sounds coming from Mr. Ingram-Lopez became softer and slower. Then, 10 minutes after having been placed in handcuffs, Mr.

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<sup>5</sup> It is difficult to discern exactly what he said with the possibilities including "aww shit, through a fucking snake," "aww shit, through the fucking feet," "aww shit... what the fuck is this," and "aww shit, though the fucking seat."

Ingram-Lopez stopped making sounds all together. The officers did not check on him and continued to discuss how to transport him to the jail.

Sergeant Mitchell arrived on scene and was briefed by Officer Starbuck as he was preparing the patrol vehicle for transport. About one minute after Mr. Ingram-Lopez stopped making sounds, Sergeant Mitchell walked from Officer Starbuck to the driveway where Officer Jackson and Officer Routledge had Mr. Ingram-Lopez detained. Officer Jackson briefed Sergeant Mitchell. Officer Routledge advised the sergeant that he had been bitten by the dog.

Officers Jackson and Routledge still had Mr. Ingram-Lopez restrained on his stomach with his arms handcuffed behind his back with two plastic blankets and a spit sock laying over his head. Sergeant Mitchell was not informed that Mr. Ingram-Lopez had stopped making sounds a minute before his arrival. Sergeant Mitchell asked where Mr. Ingram-Lopez' pants were and retrieved them.

Officer Stoor then returned to the driveway after preparing his vehicle for the transport. He switched places with Officer Jackson and took control of Mr. Ingram-Lopez' torso. Officer Routledge was still restraining Mr. Ingram-Lopez' legs. Officer Routledge suggested that Officer Stoor use all his weight because Mr. Ingram-Lopez was strong. Within 30 seconds after replacing Officer Jackson, Officer Stoor asked "shouldn't we have him in the recovery position?" This occurred just over one minute after Sergeant Mitchell arrived in the driveway. Officer Stoor then began to try to revive Mr. Ingram-Lopez.

Almost 12 minutes after Mr. Ingram-Lopez had been handcuffed, and almost two minutes after Mr. Ingram-Lopez stopped making sounds, the officers attempted to revive Mr. Ingram-Lopez. The officers rolled Mr. Ingram-Lopez onto his side. They attempted to revive him with a sternum rub and by slapping his chest and yelling "hey."

Officer Jackson then requested paramedics. The officers removed the spit sock from Mr. Ingram-Lopez' head and moved the handcuffs to the front of his body. The officers next administered two doses of Narcan (an overdose reversal drug for opioids that does not cause harm to individuals under the influence of something other than opioids). Officer Starbuck then began chest compressions, followed by Sergeant Mitchell. They did chest compressions for approximately five minutes until paramedics arrived and took over. Paramedics tried for more than 30 minutes to revive Mr. Ingram-Lopez but were unsuccessful. Mr. Ingram-Lopez was pronounced dead at the scene. After paramedics left, the scene was secured. Detectives arrived and conducted an in-custody death investigation.

### **Analysis:**

The legal inquiries addressed here are whether the officers' conduct, through acts or omissions, would constitute a criminal offense, and if so, whether they have a

justification defense under Arizona Law. The crimes considered are assault, unlawful imprisonment, and reckless manslaughter or negligent homicide.

In looking at the acts committed by the officers, each of them restrained Mr. Ingram-Lopez, and in so doing, used some amount of physical contact and physical strength or force, and at some points threatened to use a taser on him. There is no evidence that any of the officers struck, hit, kicked, or choked Mr. Ingram-Lopez. There is also no evidence of any intent by the officers to cause injury to Mr. Ingram-Lopez with the physical contact used or otherwise.

The evidence shows that Officer Jackson and Officer Routledge used their own weight and strength to restrain Mr. Ingram-Lopez, both to get him handcuffed, and also at times to subdue him after he was handcuffed. Additionally, Officer Stoor used his weight to restrain Mr. Ingram-Lopez' feet for a few moments so that Officer Jackson and Officer Starbuck could get Mr. Ingram-Lopez handcuffed.

There is also evidence that Officer Starbuck used physical contact to restrain Mr. Ingram-Lopez during efforts to handcuff Mr. Ingram-Lopez as he struggled, and Officer Starbuck also threatened to use his taser if he failed to comply with orders. However, neither Officer Starbuck nor Officer Stoor had any significant physical contact with Mr. Ingram-Lopez after he was handcuffed, until Officer Stoor returned to him after Sergeant Mitchell arrived on the scene and Officer Stoor attempted to revive him.

In addition to acts involving the use of physical contact and force, there were also omissions (failures to act) by the officers that could potentially constitute a criminal offense or offenses. None of the officers provided Mr. Ingram-Lopez with water, despite his repeated requests. Not providing water was not in violation of Tucson Police Department General Orders. There are multiple explanations for why the officers may have not given water to Mr. Ingram-Lopez. It is possible he could have threatened their health and safety by spitting on them, especially during a pandemic. Additionally, the officers may have been concerned that they could not safely provide him with water while keeping him restrained. It is also possible officers may have been concerned that water might be medically inappropriate given his intoxication from an unknown substance.

None of the four officers contacted paramedics before Sergeant Mitchell arrived on scene, and none of the officers moved Mr. Ingram-Lopez to a "recovery position" after he was handcuffed until Officer Stoor began attempts to revive him. Rather, each of the officers kept Mr. Ingram-Lopez handcuffed and lying on his stomach with emergency blankets and a spit hood over his head. They also failed to check on him after he stopped making noises.

Failing to call paramedics and failing to put Mr. Ingram-Lopez into a "recovery position" immediately after he was handcuffed and restrained is totally inconsistent with Tucson Police Department General Orders and training the officers received. Each of these officers was trained that when confronted with a subject suspected of a criminal offense,

who has ingested drugs, is naked, and is acting bizarre – including screaming for no apparent reason, that they must first restrain and detain that subject, but then they should immediately contact paramedics.

They were trained that this combination of facts constitutes a medical emergency that needs to be addressed immediately. They were also trained that under these circumstances they should avoid having the subject lying prone.

Through their training, each of the officers should have been aware of the potential risk of death. The officers either failed to perceive the risk or ignored the risk. There is no explanation as to why the officers failed to call paramedics and failed to put Mr. Ingram-Lopez into a “recovery position” as soon as he was restrained in handcuffs.

**There is no crime of assault or unlawful imprisonment:**

*The officers are not criminally responsible for assault or unlawful imprisonment, because their conduct in connection with the acts of initially restraining, handcuffing, and detaining Mr. Ingram-Lopez is justified under Arizona law.*

Under Arizona Law, A.R.S. § 13-409, a law enforcement officer is authorized to use physical force in making an arrest if a reasonable person would believe physical force is immediately necessary to effect the arrest or prevent escape, the officer makes known the purpose of the arrest, and a reasonable person would believe the arrest to be lawful.

“Physical force,” is defined as force used upon or directed toward the body of another person and includes confinement but does not include deadly physical force. Under Arizona Law, it is a defense to the crime of unlawful imprisonment if the restraint is accomplished by a peace officer acting in good faith, in the lawful performance of his duty.

Here, the officers were acting in good faith in the lawful performance of their duties. The officers were responding to an emergency 911 call concerning a potential domestic violence crime in progress with an alert informing them that they were to make an arrest for a previous domestic violence crime. Under Arizona law, custodial arrest is mandatory for the crime of domestic violence, and the 911 caller was requesting that officers come to her residence. The officers had legal authority to enter the premises and to restrain Mr. Ingram-Lopez as necessary to take him into custody; thus, they did not commit unlawful imprisonment.

Likewise, the officers did not commit criminal assault during the officers’ detention of Mr. Ingram-Lopez. They did not strike, punch, kick, or choke Mr. Ingram-Lopez, and there is no evidence of any specific injury inflicted by any of the officers. The officers used only such force as was necessary to restrain Mr. Ingram-Lopez in handcuffs in order to arrest him. While they threatened the use of a taser in order to persuade Mr. Ingram-Lopez to cease resisting, they did not deploy the taser.

### **There is insufficient evidence to prove negligent or reckless homicide:**

*There is a question whether the conduct by the officers following their initial restraint of Mr. Ingram-Lopez constituted negligent or reckless homicide. The officers maintained Mr. Ingram-Lopez in the prone position, handcuffed behind his back, without moving him into the recovery position, without providing him with the water he requested, putting a spit hood and blankets over his head, not checking on his breathing, and not contacting paramedics right away.*

There is evidence that the officers at the very least failed to perceive the risk of death. Arguably, there is also evidence that they disregarded a known risk that Mr. Ingram-Lopez could die. Accordingly, we have explored the potential crimes of both negligent homicide and reckless homicide (manslaughter). In order to prove negligent homicide or manslaughter, the State would have to prove beyond a reasonable doubt that the risk the officers ignored or failed to perceive was a “substantial and unjustifiable risk,” and that disregarding or failing to perceive that risk was a “gross deviation from what a reasonable person would observe in the situation.”

We first look at whether any of the officers’ conduct disregarded or failed to perceive a risk of death in a manner that was a gross deviation from what a reasonable officer would observe.

The fact that the officers did not provide water to Mr. Ingram-Lopez was not a gross deviation because it was not contrary to their training or policy, and there are reasonable explanations for it. Likewise, using a spit hood and placing blankets over Mr. Ingram-Lopez was not a gross deviation because it was not contrary to the officers’ training or policy, and there are reasonable explanations for this.

By contrast, the failure of the officers to call for paramedics immediately, and leaving Mr. Ingram-Lopez on his stomach in the prone position with his arms handcuffed behind his back for several minutes without checking on his breathing and attending to him were gross deviations from the standard of care these officers were trained to provide.

Their training was designed specifically to alert officers to a potential risk of death. We must determine whether the officers’ omissions and gross deviations from the standard of care under these specific circumstances directly resulted in a risk of death that was both “substantial and unjustifiable.” We find that the officers’ conduct did result in an unjustifiable risk. The question then becomes whether the risk of death was also “substantial.”

There is professional literature that puts the risk of death under these circumstances at 10% or less.<sup>6</sup> Some might consider that level of risk to be substantial - meaning a strong possibility, while others might consider it to be less than substantial - meaning merely a

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<sup>6</sup> “Excited Delirium A Systematic Review” – Gonin, Beysard, Yersin, and Carron -Academic Emergency Medicine, Vol. 25, Issue 5 – Wiley Online Library (2018); “Excited Delirium and the Dual Response: Preventing In-Custody Deaths” - Roach, Echols, and Burnett – Law Enforcement Bulletin (July 8, 2014).

significant or remote possibility. Therefore, we must acknowledge that reasonable minds might differ with respect to this issue making it questionable to conclude that we could prove to a jury beyond a reasonable doubt that the officers disregarded or failed to perceive a "substantial" risk of death to Mr. Ingram-Lopez.

However, even assuming the evidence is sufficient to prove the officers failed to recognize that their conduct resulted in a "substantial and unjustifiable" risk of death to Mr. Ingram-Lopez, there is a final element that must be proven as well. That final element is causation.

All homicide crimes, including negligent homicide and reckless manslaughter, require proof that the suspect's conduct actually "caused the death of another person." The State must prove, beyond a reasonable doubt, that but for the officers' conduct through their acts or omissions Mr. Ingram-Lopez would not have died.

Here, there is insufficient evidence that the officers' conduct caused Mr. Ingram-Lopez' death. To the extent there is a suspicion that the officers' conduct may have been a factor resulting in Mr. Ingram-Lopez' death, mere suspicion, however reasonable, is insufficient. There must be proof beyond a reasonable doubt that it was their conduct that caused Mr. Ingram-Lopez' death.

*Proof of causation is heavily dependent upon the findings of medical experts. In this case, the experts' findings are inconclusive.*

An autopsy was performed on April 22, 2020 by the independent Pima County Office of the Medical Examiner. Dr. Ashley Lukefahr performed the autopsy, with former Chief Medical Examiner Dr. Bruce Parks present and witnessing the examination. Toxicology testing of Mr. Ingram-Lopez' blood was positive for cocaine and the cocaine metabolite. Toxicology of his urine was also positive for the cocaine metabolite.

Both Dr. Lukefahr and Dr. Parks viewed the body worn camera footage before they wrote their final autopsy report. They were aware that Mr. Ingram-Lopez asked for but was not provided with water, and they were aware of the length of time Mr. Ingram-Lopez was in the prone position with the spit hood and blanket over his head without being checked on and without paramedics being called. Furthermore, Chief Medical Examiner Dr. Gregory Hess also participated in the investigation. He reviewed the autopsy and toxicology reports, viewed the body worn camera footage, and agreed with the cause and manner of death as stated in the autopsy report.

After considering all these facts, as well as the autopsy of Mr. Ingram-Lopez' body and the toxicology results, the medical examiner's report concluded that Mr. Ingram-Lopez' death was caused by "*sudden cardiac arrest in the setting of acute cocaine intoxication and physical restraint with cardiac left ventricular hypertrophy [enlarged heart] as a significant contributing condition.*"

Our subsequent interviews of Dr. Parks, Dr. Hess, and Dr. Lukefahr explored and sought clarification with regards to the conclusions and opinions stated in their autopsy report and expanded upon the factors they considered. According to all the medical examiners, the lack of water did not contribute in any way to Mr. Ingram-Lopez' death. The term "physical restraint," as referenced in their report, included the handcuffing, laying Mr. Ingram-Lopez prone on his stomach on the ground, the use of a spit hood, and the use of the emergency blankets.

Dr. Lukefahr, Dr. Parks, and Dr. Hess opined that the "physical restraint" involved here could neither be excluded nor included as a factor in causing the death of Mr. Ingram-Lopez. In other words, according to these forensic medical experts, the conduct of the officers during the events may or may not have been a contributing factor to Mr. Ingram-Lopez' death.

Furthermore, the medical experts also stated they cannot determine whether Mr. Ingram-Lopez might have died that night without any police involvement. They also cannot determine whether moving Mr. Ingram-Lopez into the recovery position or calling paramedics sooner would have changed the outcome such that Mr. Ingram-Lopez would have survived. As a result, there is insufficient evidence to prove beyond a reasonable doubt that the conduct of any one of the officers, or the officers combined, caused the death of Carlos Adrián Ingram-Lopez.

The Pima County Attorney's Office has considered the autopsy report and amended report authored by Dr. Philip Keen. We conclude that it does not provide reliable proof of causation. Dr. Keen completed his first report without having the benefit of the toxicology results and without viewing the crime scene photos.

Dr. Keen concluded in his first report that his autopsy findings were "consistent with acute cardio-respiratory failure with visceral congestion," and "[t]hese occurring in the context of signs of struggle/restraint raise the issue of possible positional asphyxia." In his report, the only external injuries he found were "recent abrasions" to Mr. Ingram-Lopez' face, his right upper arm, his leg, his knee, his hand, and his wrists. Dr. Keen found no internal injuries and noted "no gross abnormalities of the major muscle groups," including Mr. Ingram-Lopez' back.

After receiving the blood and urine results showing active cocaine in Mr. Ingram-Lopez' blood, and the cocaine metabolite in both his blood and urine, Dr. Keen authored an amended autopsy report. He concluded, with very little explanation, that the death was "not due to the drug," and that the "effects [of cocaine] are not sufficient to explain the death." His only explanation for this conclusion was that "If the stimulant drug was a dominant factor there should have been some evidence of signs of respiratory distress prior to the encounter." His stated conclusion was that the death was "still consistent with an asphyxia event (suffocation)." He further explained that that the "facedown position with his wrists cuffed ... would potentially further compromise his breathing."

Dr. Parks and Dr. Lukefahr have read the autopsy report and amended report authored by Dr. Keen. They stated that his conclusion is flawed in that he completely ignores the use of cocaine as a contributing factor in Mr. Ingram-Lopez' death. Furthermore, Dr. Parks specifically disagreed that there would have been signs of respiratory distress prior to the encounter with police if the cocaine was a dominant factor.

The Pima County Attorney's Office wanted further clarification as to why Dr. Keen believed that cocaine in no way contributed to the death, and further explanation for his conclusion that the death was consistent with asphyxia. Several weeks before the completion of this document, we asked to be allowed to interview Dr. Keen to clarify and discuss his findings with us. Dr. Keen merely offered, through the lawyer representing Mr. Ingram-Lopez' family, to consider being interviewed, on the condition that we would not ask him anything about the false swearing and perjury charges filed against him in an unrelated case. Despite us sending several emails to him via the lawyer for the family, we have yet to hear anything back to this date from Dr. Keen.

The Pima County Attorney's Office also retained Dr. Edward D. French, Ph.D., Professor Emeritus of Pharmacology at the University of Arizona, College of Medicine, to provide information on the pharmacology and toxicology associated with cocaine use and to determine whether the use of cocaine contributed to Mr. Ingram-Lopez' sudden cardiac arrest and death. Dr. French has often been retained by defense attorneys as well as prosecutors here in Pima County as an expert on the effects of drugs on the human body.

Dr. French's opinion is that "the levels of cocaine in Carlos Ingram-Lopez's blood resulted in a toxic cocaine-induced delirium." Dr. French specifically described that "[c]ocaine-excited delirium or agitated delirium, is a cocaine-induced psychosis, that can result in death," and that "[d]eath is more likely to occur suddenly after the agitation has subsided." In these cases an enlarged heart is also commonly found.

Dr. French supported this opinion by referring to the description of Mr. Ingram-Lopez' behavior made during the 911 call by his grandmother. He stated that her description "supports a conclusion that Carlos was experiencing an intense emotional response to his use of cocaine." He further stated that the concentrations of the cocaine metabolite and the active cocaine suggested that Mr. Ingram-Lopez was a "binge user of cocaine." Binge use of cocaine "can lead to pronounced behavioral, psychological, and physiological alterations."

Dr. French further stated that "Carlos Ingram-Lopez's behavior on 4-21-20 was caused by the toxic effects of cocaine, which when coupled to the stress of intervention by police, may have been significant factors to the elicitation of a fatal cardiac arrhythmia, with Carlos' enlarged heart as an additional contributing factor."

To prove causation, we must be able to prove, *beyond a reasonable doubt*, that the conduct of one or more of the officers, including Officers Jackson, Routledge and Starbuck, contributed to and caused the death of Mr. Ingram-Lopez. The facts are that

Mr. Ingram-Lopez had a serious history of cocaine abuse. The autopsy performed by the Office of the Medical Examiner showed that he had an enlarged heart, which is consistent with cocaine abuse. The night of the incident, Mr. Ingram-Lopez had a significant amount of cocaine in his system, and his behavior was consistent with an episode of cocaine induced delirium.

The Medical Examiner's autopsy concluded that Mr. Ingram-Lopez died of cardiac arrest, and that his enlarged heart coupled with the large amount of cocaine in his body and the stress of his interaction with police may have contributed to his death.

When questioned concerning the police contact, not one of the Medical Examiner pathologists, not Dr. Lukefahr, Dr. Parks, nor Chief Medical Examiner Dr. Hess, could say that the officers' detention of Mr. Ingram-Lopez in a continuously prone position, their failure to contact paramedics or their failure to put Mr. Ingram-Lopez in a recovery position contributed to his death. Dr. French's opinions are consistent with the opinions of the Office of the Medical Examiner

Based on these findings, and even considering Dr. Keen's opinion, there is reasonable doubt as to whether the conduct of the officers here caused the death of Mr. Ingram-Lopez. Without credible and relatively certain medical testimony tying the cause of death of Mr. Ingram-Lopez to the conduct of the officers, there is insufficient evidence to prove a crime of negligent or reckless homicide. Due to the lack of proof of causation, the Pima County Attorney's Office declines to file criminal charges. If additional materials are obtained in the future, we would appreciate the opportunity to review those materials to consider whether they add to our understanding of this incident. If you have any questions or need anything else in connection with this matter, please don't hesitate to contact us.

Sincerely,



Barbara LaWall  
Pima County Attorney



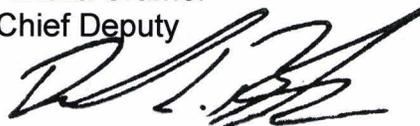
Nicol Green  
Chief Trial Counsel



Rick Unklesbay  
Deputy County Attorney



Amelia Cramer  
Chief Deputy



David Berkman  
Chief Criminal Deputy

cc: Detective Heriberto Orozco, Tucson Police Department