

REPORT ON THE IN-CUSTODY DEATH OF DARNELL BENSON
ON APRIL 6, 2015



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INDEPENDENT INVESTIGATIONS BUREAU
CITY AND COUNTY OF SAN FRANCISCO
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I. INTRODUCTION

The San Francisco District Attorney's Office (SFDA) has completed its review of the in-custody death of Darnell Benson that occurred on April 6, 2015. The SFDA's review was conducted by the office's Independent Investigations Bureau (IIB) and focused exclusively on determining whether any criminal charges relating to the conduct of law enforcement officers are warranted. IIB's review did not examine issues such as the officers' compliance with internal policies and procedures, their training or tactics, or any issues related to civil liability. This report should not be interpreted as expressing any opinions on such non-criminal matters.

In brief, on the morning of April 3, 2015, San Francisco Police Department (SFPD) officers were dispatched to an apartment at 145 Kiska Road in San Francisco, California, in response to a 911 call about a trespasser on a resident's balcony. SFPD officers removed the trespasser, later identified as Darnell Benson, without incident. The officers determined that Benson had a warrant and decided to take him into custody. They took him to be booked at Bayview Station and then took him to San Francisco's County Jail #1. During the initial processing at the jail, Benson became agitated and expressed suicidal ideations to jail personnel. As a result, the San Francisco Sheriff's Department (SFSF), which manages the jail, rejected Benson for admission into the jail. The SFPD officer in charge of transporting Benson was directed to take him to San Francisco General Hospital's (SFGH) Psychiatric Emergency Services (PES) ward for possible involuntary confinement under Section 5150 of the California Welfare and Institutions Code because he potentially posed a danger to himself.

Several SFSF deputies and the SFPD officer attempted to escort Benson, handcuffed, out of the jail and into the officer's patrol car so he could be taken to SFGH. Inside the jail, Benson became combative and non-compliant, and deputies took him to the ground and shackled his legs. Benson became calmer, and was raised up to his feet and walked out of the jail. Once outside, however, Benson resisted being put in the patrol car, and deputies took him to the ground once more and held him down. Medical assistance and back up were summoned. Several additional SFPD officers arrived and relieved the deputies who were restraining Benson. Paramedics soon arrived with an ambulance to transport Benson. Benson had become calmer, but based on his prior reported behavior, a paramedic injected Benson with a sedative in the event he became combative again. Once in the ambulance, Benson's vital signs deteriorated. His respiratory rate slowed and eventually his heart stopped. Paramedics initiated life-saving procedures. Benson eventually regained a pulse at the hospital, but doctors determined that he had suffered a cardiac arrest and a very severe anoxic brain injury (lack of oxygen to brain). He was placed on life support, and was declared dead three days later, on April 6, 2015.

The San Francisco Office of the Chief Medical Examiner (OCME) conducted an autopsy and determined that Benson's death was caused by complications of acute methamphetamine and cocaine intoxication.

After a thorough review of the available evidence,¹ we conclude that the evidence does not establish beyond a reasonable doubt any violations of criminal law by the officers or deputies involved in this incident. Accordingly, we decline to file any criminal charges in this matter.

¹ The evidence reviewed as part of this investigation includes: SFPD's incidents reports and dispatch records, interviews conducted by SFPD with all the officers, deputies, medical personnel, and civilian witnesses involved; jail surveillance camera footage; and Benson's medical records (including his autopsy report).

II. FACTUAL SUMMARY

At 10:16 a.m., on April 3, 2015, 911 dispatch received a call about a trespasser at an apartment at 145 Kiska Road in San Francisco, California. SFPD Officers Eddieberto Martinez, Star #4190, and Ramon Reynoso, Star #854, and SFPD Sgt. Feliks Gasanyan, Star #4224, responded to the call and arrived at the Kiska Road address at approximately 10:22 a.m. They walked to the rear of the apartment where the balcony was located. The balcony was approximately four feet off the ground. They saw a man on the balcony, later identified as Darnell Benson, and asked him to come down. Sgt. Gasanyan said Benson said to him: “Don’t worry about it, I’m just taking this hit.” Gasanyan said he did not observe anything in Benson’s hands, but Benson motioned as if he was going to smoke something. Officer Reynoso said Benson said something to the effect of: “Let me take my last hit.” According to Sgt. Gasanyan, Benson never said or did anything indicating he wanted to jump off the balcony.



Figure 1: The red oval indicates the balcony where Benson was located at 145 Kiska Road. Note the balcony is approximately four feet off the ground. (Source: IIB)

Sgt. Gasanyan said he thought about climbing up the balcony, but decided it made more sense to gain access through the apartment. Officers Martinez and Reynoso went to the front of the apartment and gained access to the balcony by going through the apartment with the resident's consent. They handcuffed Benson on the balcony and escorted him out through the apartment without incident, and sat him on a nearby curb.

Officer Martinez searched Benson and found a non-state-issued photo ID with Benson's name on it, as well as a glass pipe. Officer Reynoso ran Benson's name in his computer system to determine if he had any warrants and learned that he had an outstanding arrest warrant for a traffic incident. Officers Reynoso and Martinez then decided to arrest Benson on that warrant. Officer Martinez described Benson as a bit disheveled and "un-showered." Both he and Officer Reynoso said Benson was generally cooperative, non-combative, and did not give any indication that he was suicidal.

SFPD Officers Robin Odum, Star #983, and Cory Foss, Star #4188, arrived and decided to take over because the incident occurred in their assigned patrol sector. They spoke with the resident of the apartment who said she did not know Benson but that she did not wish to press charges against him for trespassing. Officer Odum searched Benson, and she and Officer Foss transported him in their police car to SFPD's Bayview Station without incident.

During the ride to Bayview Station and during the booking process there, Officer Foss described Benson as chatty but calm. According to Officer Foss, Benson's comments were not always logical or responsive, but he gave no indication that he wanted to kill himself. Officer Odum said Benson was saying: "Chirp, chirp, chirp, shut up bird," during the ride to Bayview station, but that he never seemed upset or did anything violent.

While at Bayview Station, SFPD Officer Michael Wells, Star #348, booked Benson into custody. He said Benson seemed "a little out of it" and speculated that Benson could have been on drugs or had mental health issues. Officer Wells reported that Benson still answered all the questions put to him. Wells said Benson was placed in a cell because of his bizarre behavior.

After the booking process was complete, at approximately 11:03 a.m., SFPD Officer Tommie Bartley, Star #532, searched Benson, handcuffed him, and drove him to San Francisco County Jail #1, along with another person who was in police custody, Eddie T. Officer Wells reported no problems getting Benson into Officer Bartley's car, although he did recall that Eddie T. expressed some reservations about riding with Benson due to Benson's bizarre behavior. Eddie T. said he thought Benson had "some kind of mental problem." According to Eddie T., during their ride to County Jail #1, Benson never stopped talking, and did not make any sense. Eddie T. said Benson was not combative, and "didn't seem suicidal" either.

Processing at County Jail #1

Once at County Jail #1, Eddie T. was processed first while Benson remained handcuffed in a holding cell. Benson was processed next, beginning with fingerprinting. SFPD Deputy Ryan Stewart, Star #2176, who handled the fingerprinting process, said Benson had a tough time following his instructions, and at one point he had to just "grab Benson's fingers" and place them "where they needed to go."

Benson was then seated in a chair to undergo an interview with triage nurse, Joselito Borja. There are surveillance cameras inside County Jail #1 that capture the booking desk, or initial intake area of the jail. We reviewed video recordings from those cameras during this investigation. The cameras do not capture audio. The interview with nurse Borja began at approximately 12:08 p.m., according to the timestamp on the surveillance video. Officer Bartley stood next to Benson as he answered the nurse's questions. Borja said Benson would not answer

his questions and that he was talking to himself. According to Officer Bartley, Benson said he believed he was in Switzerland. When the nurse asked Benson if he was suicidal, Officer Bartley said Benson responded: “Yeah, I want to do that, I do want to kill myself.”



Figure 2: Surveillance camera footage shows the booking desk area on April 3, 2015, at approximately 12:08 p.m. Benson is seated facing Nurse Borja, who is seated in front of a computer. Officer Bartley is standing to Benson’s right. (Source: SFSD)

At that point, Borja alerted a member of Jail Psychiatric Services, Cristina Farrington, who took over the triage interview. Officer Bartley said Benson’s responses to Farrington’s questions became increasingly bizarre. When asked the date, for example, he repeated the word “three” over, and over again, according to Officer Bartley and SFSD Lt. John Minor, Star #1147, who was also standing nearby.

SFSD Senior Deputy James Dolly, Star #1392, who was also in the area, recalled that Benson responded to one question with: “I’ll text God.” At this point, several SFSD deputies had gathered near Benson as he had become fidgety and his behavior and responses had become more bizarre. As Benson’s behavior became stranger, SFSD Deputy Michael Vigil, Star #2147, handcuffed Benson to the chair he was seated in as a precaution. Based on Benson’s responses to the questions, including that he wanted to kill himself, Farrington rejected Benson from County Jail #1 and advised that he should be taken to San Francisco General Hospital’s (SFGH) Psychiatric Emergency Services (PES) ward because he potentially posed a danger to himself

and may have met the criteria for involuntary confinement under Section 5150 of the California Welfare and Institutions Code.



Figure 3: Surveillance camera footage shows the booking desk area at approximately 12:14 p.m. As Benson's responses become stranger, deputies gathered around Benson as a precaution. (Source: SFSD)

Benson Becomes Agitated

Because Benson was rejected from County Jail #1, he was not technically in the custody of SFSD, but rather remained in SFPD custody. Thus, it was Officer Bartley's responsibility to take Benson to SFGH. Deputy Vigil told Officer Bartley that they had to switch handcuffs because Benson was going to be leaving the jail with Officer Bartley, an SFPD officer, and therefore he needed to be in SFPD handcuffs. As Deputy Vigil and Officer Bartley removed the set of SFSD handcuffs and began to place another SFPD set on, Officer Bartley said he noticed Benson become agitated. Nurse Borja also said he observed Benson become agitated the moment the second set of handcuffs were put on.

At the same time, Benson stood up and his pants fell down. Benson was not wearing underwear and SFSD Deputy Julie Martinez, Star #1281, who was in the triage area at the time, observed something white hanging from Benson's rear end. Senior Deputy Dolly removed the item (which concealed a plastic bag with a leafy substance inside), causing Benson to become further agitated, according to Lt. Minor and SFSD Deputy Granville Tongue, Star #1034, who were standing nearby. Officer Bartley said he observed one SFSD deputy (although he could not

identify whom) use a pain control hold on Benson's finger to subdue him. At that point, according to Officer Bartley, Benson began to pull away and began yelling for "Allah," asking "Allah to save [him]," and making bird noises.

Deputies Take Benson to Ground

Officer Bartley finished handcuffing Benson and then backed away from him while several SFSD deputies: Senior Deputy Dolly, Deputy Vigil, Deputy Stewart, Deputy Felix Esposito, Star #2047, and Deputy Adrian Lavitoria, Star #2086, attempted to escort Benson from the chair to the exit. As they walked approximately three to four feet toward the exit, Benson became violent and started grabbing at the deputies. They told him to stop resisting and that they were taking him to get help at the hospital. The deputies then took Benson down to the ground where he continued screaming, flailing, and grabbing at the deputies' hands and fingers. Deputy Stewart said he controlled Benson's head as they took him down and while on the ground, in an effort to prevent Benson from hitting his head.



Figure 4: Surveillance camera footage shows the booking desk area at approximately 12:18 p.m. Deputies are attempting to walk Benson toward the exit. (Source: SFSD).

With Benson stomach down on the ground, Deputy Lavitoria attempted to grab Benson's legs and place them into a "Figure Four" leg lock.² Deputy Stewart held his head, and Deputy Vigil and Esposito each grabbed an arm and attempted bent wrist locks on his hands. With four deputies restraining him, Benson continued to fight. Senior Deputy Dolly said he did not hear Benson complain or indicate any kind of medical distress. He said he nevertheless told Deputy Stewart to "ease up" on his hold of Benson's head and neck. Deputy Lailah Samson, Star #1533, retrieved leg shackles and Officer Bartley assisted Senior Deputy Dolly and Deputy Lavitoria in applying shackles to Benson's legs.



Figure 5: Surveillance camera footage shows the booking desk area approximately 24 seconds after Figure 4. Here, deputies have taken Benson to the ground and are restraining him. (Source: SFSD).

Deputies Escort Benson Outside

According to the surveillance footage, after approximately four minutes on the ground (from 12:18 p.m. to 12:22 p.m.), deputies lifted Benson up off the ground. The deputies stood him up and walked him backwards out of the jail exit and toward Officer Bartley's car. Once outside, Deputy Louie Loufas, Star #1500, took over for Deputy Stewart and assisted in controlling Benson's head and keeping Benson bent at the waist. Senior Deputy Dolly said he was holding

² A "Figure Four" leg lock refers to placing one ankle across the opposite knee, and bending the opposite leg at the knee, thereby "locking" both legs and preventing their movement.

the back of Benson's waistband as they walked him out and that Benson exhibited no visible signs of distress at this point and had no medical complaints. The surveillance cameras in the sally port area just outside the jail were monitoring cameras only, and were not designed to record, so there is no video that captures the rest of the incident.



Figure 6: Surveillance camera footage shows the booking desk area at approximately 12:22 p.m. Here, deputies have lifted Benson to his feet and are again attempting to walk him out of the jail. (Source: SFSD)

Benson Resists and Deputies Take Benson to the Ground Again

As they approached Officer Bartley's car, Deputy Dolly went to assist with another matter and Deputy Stewart took over for Deputy Loufas. Officer Bartley opened the passenger-side rear car door for Benson. Deputies Lavitoria, Loufas, Vigil, and Esposito tried to put Benson in the car, while Officer Bartley approached from the other side of the car to see if he could help by pulling Benson into the car. Benson became non-cooperative and started resisting and flailing. The deputies took Benson to the ground once more. Deputy Stewart said he again controlled Benson's head to ensure that Benson did not hit his head.

Benson was still handcuffed and shackled and was placed stomach down and restrained by the deputies. Deputy Stewart was holding Benson's head, but Deputy Loufas soon took over. Deputy Vigil and Esposito were on either side of Benson, restraining his hands and arms. Deputy Lavitoria once again attempted to place Benson into a "Figure Four" leg lock. Deputy Lavitoria

said he struck Benson twice on his right thigh using his right knee to stop Benson from kicking him.

Benson began spitting blood, leading deputies to ask for a spit mask. Deputy Victoria Humphrey, Star #2171, retrieved a mesh spit mask and attempted to place it over Benson's head. Deputy Humphrey was unsuccessful as she said Benson tried to bite her. Deputy Samson then successfully placed the spit mask over Benson's head.

At some point, Deputy Loufas recalled asking for a t-shirt to place under Benson's head to prevent him from hitting his head. SFSD Deputy Rebecca Lee, Star #1958, retrieved a t-shirt and placed it under Benson's head. Deputy Loufas said as the person closest to Benson's head, he never heard Benson complain about breathing. Deputy Loufas said he attempted to calm Benson down by asking him where he grew up and what school he went to. He said that Benson would occasionally get calm, but then would begin resisting again and asking for Allah.

Given Benson's combative state, Lt. Minor and Deputy Loufas advised Officer Bartley that he may want to seek assistance to take Benson to SFGH. At approximately 12:24 p.m., Officer Bartley used his radio to call for an ambulance and for SFPD backup.

SFPD Backup Arrives and Takes Over Restraining Benson

SFPD Officers Jonathon Lucchetti, Star #1655, and Paul Lujano, Star #866, arrived first, at approximately 12:34 p.m., followed by Officers Odum and Foss at approximately 12:37 p.m. Eventually, SFPD Sgt. Feliks Gasanyan arrived at the sally port area as well.

Officer Lujano replaced the deputy on Benson's right side and continued to hold Benson's right arm. Officer Foss replaced Deputy Loufas at Benson's head. Deputy Loufas warned Officer Foss that Benson may bite. Officer Odum replaced the deputy at Benson's left side and continued to hold his left arm. Officer Bartley held Benson's feet, taking over for Deputy Lavitoria. Officer Lucchetti stood nearby but was not involved in restraining Benson.

Benson continued to thrash for several minutes, according to Officer Foss. Officer Lucchetti said it appeared that Benson was trying to roll over and kept trying to pick his shoulders and torso up off the ground, knocking the officers off at points. Officer Lujano said Benson was thrashing violently and would twist his body from side to side to try and grab one of the officers holding him. Both Officer Lujano and Officer Odum said Benson tried to grab their fingers. Officer Lujano said he lifted Benson's spit mask briefly and saw blood dripping from his mouth. He said that Benson was yelling: "Take me, Allah," and, "Kill me."

Lt. Minor said that throughout this incident, he saw officers and deputies using control holds but did not see anyone strike or kick Benson. Lt. Minor also said he had never seen anyone fight as hard or for as long as he saw Benson fight. Officer Foss said he saw a deputy use a closed fist to strike Benson while instructing him to "let go" or maybe to "open [his] hands." Officer Foss could not recall which deputy it was or where on Benson's body the deputy struck him. Officer Bartley said he did not see anyone strike Benson with a baton or any other weapon. Deputy Lavitoria said he performed "distraction blows" to Benson's right thigh using his right knee to get Benson to stop kicking his legs.

After a few minutes of resisting the SFPD officers, Benson calmed down considerably. Officer Bartley believed Benson had exhausted himself. He said Benson was still resisting, but appeared to not have enough energy to fight as vigorously. Worried because there had been a drastic change in Benson's breathing and demeanor, Officer Lujano put his hand on Benson's back and confirmed that Benson was still breathing.

Paramedics Arrive

At approximately 12:40 p.m., an ambulance arrived with three medical staff from American Medical Response: Andre Velasquez, Scott Iverson, and Kevin Ronan.

Velasquez said that when he arrived, Benson was not combative. He was pinned down and was not moving much. Velasquez said he heard some grunts, but that Benson was largely quiet. Upon the paramedics' arrival, Officer Lujano asked Velasquez to check Benson's pulse because Benson had become so calm. At approximately 12:41 p.m., Velasquez confirmed that Benson's pulse rate was okay and Ronan confirmed that Benson was breathing by placing his hand on his chest.

Ronan said he checked to see where the blood near Benson's face was coming from to confirm there was no airway obstruction issue. Ronan said he believed that blood was coming from Benson's mouth. Velasquez placed a second mesh spit mask on Benson on top of the existing one.

Given the officers' and deputies' descriptions of Benson's combative behavior, the paramedics decided to place Benson in soft restraints, which are cloth restraints used to restrain people during medical transport. Velasquez said he was told that Benson had been fighting with the officers and deputies for approximately 45 minutes to one hour. As the medical team began applying soft restraints, Ronan administered 5 mg of Versed³—a sedative—to Benson's left buttock at approximately 12:43 p.m. Officer Lujano said he felt Benson's body become more sedated and limp after the injection. Officer Odum said she noticed no change after the sedative was administered because she felt Benson had already calmed down significantly even prior to the sedative.

Once Benson was in soft restraints, officers and deputies removed his handcuffs, rolled him on to his back, and took his leg shackles off. Benson was much calmer throughout the application of the soft restraints, such that several officers grew concerned. Officer Lujano said one of the paramedics checked Benson's pulse again in response to Officer Lujano's concerns and reported that his pulse was fine. Velasquez said he saw Benson's chest rising during this time, indicating he was breathing. Ronan said he checked Benson's eyes and that his pupils were intact.

Benson's Vital Signs Deteriorate

The medical team then wheeled Benson on a gurney into the ambulance and left for SFGH at approximately 12:55 p.m. While in the ambulance, Velasquez said he assessed Benson's vital signs again. He said Benson's vitals were generally good but that his respiratory rate appeared to be decreasing. Velasquez then lifted the top spit mask and ripped open the inner spit mask that was covering Benson's face and began doing artificial respiration using a bag device. Although Benson's pulse rate was good, his respiratory rate was falling. He asked Iverson to drive "Code 3," meaning with lights and sirens, to SFGH.

SFPD Officer Odum accompanied the medical team in the ambulance to SFGH. While in the ambulance, Benson's respiratory rate continued to drop, and his pulse rate began falling, too. Ronan began doing CPR compressions to bring Benson's pulse rate up. Benson's pulse rate, however, continued to diminish and ultimately, he lost a pulse. After two minutes of CPR, Ronan asked Velasquez to place an advanced airway tube. Velasquez intubated Benson to increase his

³ Versed is also known by its generic name Midazolam, belonging to a class of medications called benzodiazepines (sedative), which produce a calming effect on the brain and nerves (central nervous system). *See* <https://www.webmd.com/drugs/2/drug-16693/versed-oral/details>

oxygen. During the intubation process Velasquez noticed Benson did not gag, a potential sign of unconsciousness. Once they arrived to SFGH, Iverson took over compressions and Velasquez continued artificial respiration procedures.

Inside SFGH, they handed over duties to SFGH staff. As the ambulance team waited in the hospital, SFGH doctors reported back that Benson's pulse had returned. However, Benson's pulse was lost again and the SFGH doctors initiated CPR. Once more, Benson's pulse returned. Doctors determined that Benson had suffered a cardiac arrest and a very severe anoxic brain injury (lack of oxygen to brain). SFPD Sgt. Leonard Caldera, #498, visited SFGH at 11:30 p.m. to check on Benson's status and was told Benson was in a coma. Benson continued on life support until April 6, 2015, when doctors declared him dead.

Autopsy

The San Francisco Office of the Chief Medical Examiner (OCME) conducted an autopsy and determined that Benson's death was caused by complications of acute methamphetamine and cocaine intoxication. Upon arrival to SFGH, his blood was drawn and maintained. Upon his death, the Medical Examiner's office ran a toxicology screen on that blood and determined that Benson's blood had a methamphetamine content of 0.27 mg/L, and a benzoylecgonine content (a cocaine metabolite) of .28 mg/L.

The medical examiner observed various bruises all over Benson's body indicating blunt force trauma, including on the side of Benson's face, on his arms, wrists, the back of his right thigh, his left calf, and his torso. The medical examiner said these marks were consistent with the use of force by the officers and deputies, and that those injuries were not a contributing factor in Benson's death. The medical examiner ruled the manner of death an accident.

III. LEGAL ANALYSIS

Because Benson's death stemmed from drug intoxication, and was not caused by the conduct of the officers or deputies, there is no basis to charge the officers or deputies with criminal charges relating to Benson's death.

Nevertheless, we evaluated the officers' and deputies' use of force to determine if any other charges are warranted. Here, the officers and deputies restrained Benson on the ground twice. Some of them used control holds and at least one deputy struck Benson's right thigh twice using his right knee, while another deputy used a closed fist to strike Benson.

Under California Penal Code Section 149, it is a crime for a "public officer who, under color of authority, without lawful necessity, assaults or beats any person . . ." The statute does not define what "without lawful necessity" means. *See id*; *see also People v. Lewelling* (2017) 16 Cal.App.5th 276, 284 [224 Cal.Rptr.3d 255]. However, in general, the statute addresses situations where officers use "more force than was necessary under the circumstances." *See People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1140 [142 Cal.Rptr.3d 423].

To pursue criminal charges, a prosecutor must be satisfied that the evidence will show beyond a reasonable doubt that the charged crime was committed. Based on the evidence of Benson's flailing, grabbing, kicking, biting, and twisting, we cannot prove beyond a reasonable doubt that the conduct of the deputies and officers in restraining and striking Benson was "without lawful

necessity,” or was “more force than was necessary.” Accordingly, we decline to pursue criminal charges relating to the officers’ and deputies’ use of force.

IV. CONCLUSION

For the reasons discussed above, we conclude that criminal charges against the officers and deputies involved in this incident are not warranted. The medical evidence establishes that their conduct was not the cause of Darnell Benson’s death. In addition, the District Attorney cannot prove beyond a reasonable doubt that their conduct in restraining and striking Benson was undertaken “without legal necessity.” Therefore, the District Attorney declines to file any criminal charges in this matter.