



SAN FRANCISCO

DISTRICT ATTORNEY'S OFFICE



REPORT ON THE INVESTIGATION INTO THE DEATH OF KURT VONBOEHRENS ON MARCH 16, 2022

INDEPENDENT INVESTIGATIONS BUREAU, April 2, 2025



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Background

The San Francisco District Attorney's Office (SFDA) investigates, independently evaluates, and reviews all officer involved shooting (OIS) incidents resulting in serious injury or death as well as any instance where the death of an individual occurs while in the custody of any peace officer in the City and County of San Francisco. This responsibility was assigned to the SFDA in conjunction with the San Francisco Police Department (SFPD) and is codified in the Memorandum of Understanding.¹

The Independent Investigation Bureau (IIB) is an independent unit within the SFDA comprised of District Attorney Investigators (DAI) with decades of experience as law enforcement officers, Assistant District Attorneys (ADA), and specialized legal assistants. The IIB investigates covered incidents wholly independently from SFPD and other outside law enforcement agencies and reports its findings directly to the elected District Attorney.

The investigation and review conducted by the IIB solely addresses whether any officers involved committed any crimes against any person against whom force was used or who died while in custody. As part of that investigation and review, the SFDA does not consider or offer opinions on issues of civil liability for any involved officers, police tactics, or police department policies and procedures.

The role of the IIB is to ensure the residents of the City and County of San Francisco that the investigation and review of qualifying events are conducted in a fair and objective manner that will serve the interests of justice to the community, the officers involved, the injured persons and their families.

The SFDA understands how these events affect the community at large and believes the loss of life during an event involving any police or peace officer leaves everyone affected with extreme grief, questions, and concerns. It is the intention of the SFDA to do what can be done to explain what took place in the hope that the truth about the events will assist with the healing process.

Privacy Statement

This report includes redactions of the names and other identifying information of witnesses. The public interest in such information is limited as it is not necessary to gain an understanding of the incident. Thus, the interest in nondisclosure clearly outweighs any public interest in disclosure.

For reasons related to privacy, as well as the readability of this report, all witnesses are indexed as follows:

Victim 1 (V-1), J.H.

Witness 1 (W-1), D.D.

Witness 2 (W-2), E. Storey

Witness 3 (W-3), G. Thompson

Witness 4 (W-4), T.T.

Witness 5 (W-5), J.T.

Witness 8 (W-8), C. Cooper

Witness 9 (W-9), D. Padilla

Witness 10 (W-10), J. Hanley

Witness 11 (W-11), K. Lincoln

Witness 12 (W-12), R. Vigil

¹ Memorandum of Understanding, eff. April 2019.



Witness 6 (W-6), M.L
Witness 7 (W-7), B. Mark

Witness 13 (W-13), T. Laxton
Witness 14 (W-14), V. Davis

Introduction

On March 16, 2022, San Francisco Fire Department firefighters (SFFD) responded to a fire alarm activated at 1432 Halibut Court in a neighborhood within San Francisco City and County on Treasure Island. SFFD called San Francisco Police Department (SFPD) to respond to the scene once they learned that a potential criminal domestic violence incident had occurred.

SFPD Officers Tov #2380 (Tov) and Gabriel #1145 (Gabriel) responded and encountered Kurt VonBoehrens (VonBoehrens) who ran from them and tried to enter a nearby apartment unit through a window he broke with a large cement rock. Tov and Gabriel pulled VonBoehrens from the broken window he entered and then attempted to overcome his aggressive resistance and place him into custody.

SFFD tried to assist police and ended up in a prolonged struggle with VonBoehrens who thrashed around violently and resisted all efforts by police and fire to calm him or get him into custody. During the event a medical emergency was declared by on scene paramedics as it appeared VonBoehrens suffered a cardiac event. VonBoehrens was then transported to San Francisco General Hospital (SFGH) where he died approximately six hours after being transported by paramedics.

The San Francisco District Attorney's IIB responded to the event, viewed the scene, and reviewed the entire investigative file as well as all evidence obtained from the scene of the event. This report is the final step in the IIB's review of the death of Kurt VonBoehrens and is limited to the determination of whether criminal charges should be brought against any involved officer or fire personnel. Upon thorough examination and a comprehensive review of the incident, the SFDA concludes no criminal charges will be filed because the evidence fails to prove that any officer or fire personnel committed a crime or were negligent in their care and or treatment of VonBoehrens.

Caution: The images and information contained in this report may be graphic and disturbing to some viewers. Therefore, viewer discretion is advised, especially for young children and individuals with sensitivity to drug use, partial nudity, violence, and blood.

Summary of Incident

On March 16, 2022, at 4:09 p.m., SFFD responded to 1432 Halibut Court regarding an activated fire alarm. SFFD Lt. Eric Storey (Storey) arrived on scene. Multiple people yelled to Storey while referring to VonBoehrens, "He's in there, they've been fighting for an hour!" and pointed to a nearby apartment unit labeled "A."

Storey approached the front door of the apartment and heard what he described as the sounds of someone trying to get out of the residence. Storey asked the person inside (later identified as the primary resident, V-1), "Do you need help?" A male voice responded, "Yes." Storey then asked if the man was being held against his will, to which the same voice again responded affirmatively. Because of concern that a crime had occurred, Storey immediately requested SFPD to assist with



the call for service. And due to the original call having an origin as a possible fire, paramedics were not immediately dispatched to assist the firefighters.

Storey next told the other firefighters with him to go to the back of apartment “A” where they encountered VonBoehrens. Firefighters saw VonBoehrens run out of the unit and across the street, where VonBoehrens picked up a large rock as he neared another nearby apartment unit.

SFPD Officers Tov and Gabriel arrived on scene and yelled to VonBoehrens who appeared to acknowledge the officers because he turned towards them and faced them in response. But VonBoehrens turned away, broke the window of the apartment unit with the large rock, and attempted to jump into and enter the apartment through the broken window. Tov and Gabriel reacted by pulling VonBoehrens from the window, to prevent him from injuring himself on the broken glass and to take him into custody. But VonBoehrens resisted and caused all three men to struggle and briefly fall to the ground. Nearby SFFD fire personnel and a civilian neighbor also tried to subdue VonBoehrens. But VonBoehrens thrashed violently and physically resisted the eight men who held him for minutes until he was eventually placed face down and handcuffed while VonBoehrens continued to kick his legs, spit, and attempt to stand up.

SFPD identified the Victim (V-1) and took statements noting the front door of V-1’s apartment was damaged to the point they could not enter. While on scene, SFPD also observed significant amounts of property newly damaged inside the home of V-1 including a broken chair, torn pieces of V-1’s toupee, broken lamp and vases, a broken stool, dislodged paintings, a broken shelf, broken statues and figurines all belonging to V-1. Observable was also a bent sliding screen door frame, and two large bottles of vodka, one empty and another mostly empty, in the apartment.

Once VonBoehrens was successfully handcuffed, firefighters retrieved soft restraints and a spinal backboard (spine board) to provide rigid support for the safe transport of VonBoehrens due to his physical and violent resistance. SFFD and paramedics removed the police handcuffs and secured VonBoehrens via soft restraints to his arms and legs. VonBoehrens was then placed on his back as SFFD and paramedics worked to secure him to the spine board. VonBoehrens went unconscious and likely experienced one of several cardiac arrests while the soft restraints were being secured. Unbeknownst to all firefighters and police personnel was that VonBoehrens had potentially lethal amounts of methamphetamine and vodka in his system and had already engaged in significant high energy activity.

The emergency personnel on scene, all trained in how to perform CPR (cardiopulmonary resuscitation), began life-saving efforts to VonBoehrens. They placed an intraosseous infusion (injection of medication or fluids directly into the bone marrow) in his left tibia (shin bone), administered two rounds of epinephrine (medication used to stimulate the heart after cardiac arrest, commonly known as adrenaline), and one dose of naloxone (opiate overdose reversal medication). Paramedics arrived with VonBoehrens to the SFGH Emergency Room at 4:52 p.m. VonBoehrens was again in cardiac arrest. SFGH medical staff were able to revive VonBoehrens and attempted to stabilize him. However, six hours later at 11:06 p.m., VonBoehrens transferred to the Intensive Care Unit (ICU) became hypotensive (abnormally low blood pressure), coded, and was pronounced deceased at 11:18 p.m.

Investigation

The San Francisco District Attorney’s Office Independent Investigation Bureau (IIB) investigation into the death of VonBoehrens was opened on March 16, 2022, due to the fact VonBoehrens died



while in custody of the police. The investigation was comprehensive, thorough, and objective. Investigators conducted 21 interviews, reviewed multiple crime scenes, observed an autopsy as well as met with the attending medical examiner, sought an independent forensic medical review, and compiled and reviewed numerous photographs and video footage obtained from surveillance and police worn body cameras (BWC).

Evidence Reviewed

- The incident scenes located at 1432 and 1433 Halibut Court, Treasure Island, County of San Francisco.
- Emergency call (911) audio recordings
- Computer Aided Dispatch (CAD) records and logs of the incident
- Crime Scene Investigation photographs of items collected from the incident scene
- Body Worn Camera footage of the incident from twelve (12) responding SFPD officers²
- Office of the Chief Medical Examiner investigative and autopsy reports (OCME)
- Independent Medical Review by Dr. Michelle Jorden
- OCME laboratory summary report (toxicology) for VonBoehrens dated 4/8/2022
- Interviews of civilian witnesses
- Interviews of involved non-civilian (sworn) witnesses
- Criminal history for Kurt VonBoehrens

Incident Scene Description

The incident occurred at Halibut Court, located on Treasure Island, a neighborhood of San Francisco County. Halibut Court is a public street that terminates in a cul-de-sac.



Figure 1- Overhead map of Halibut Court, San Francisco. (Courtesy: Google Maps). The red star denotes the original call for service and location of activated fire alarm. The blue star denotes the location of the medical emergency and arrest of VonBoehrens.

² Only relevant BWC video footage will be discussed in this report.



Figure 2- Front door of V-1's apartment unit (1432 A Halibut Court) and visible damage.

Figure 3- View of the same front door of V-1's apartment with visible damage.





Figure 4-Back patio of V-1's apartment and patio area of 1432 A Halibut Court with visible damage.



Figure 5- View of the back door of V-1's apartment and patio area of 1432 A Halibut Court with visible damage.



Figure 6- The back patio area of 1432 A Halibut Court with a closer view of visible damage to the rear patio screen door.



Figures 7 and 8-Two images of left and right shoes, respectively. Figure 7- A shoe found inside of 1432 A Halibut Court and a piece of the brown wig V-1 wore. Figure 8- A shoe outside 1432 A Halibut Court.



Figure 9-Interior of 1432 A Halibut Court and visible disarray.



Figure 10-Interior of 1432 A Halibut Court and visible disarray with a large vodka bottle in the frame in the yellow circle.



Figure 11- Interior of 1432 A Halibut Court and visible disarray at front door of the apartment unit which blocked entrance/exit.

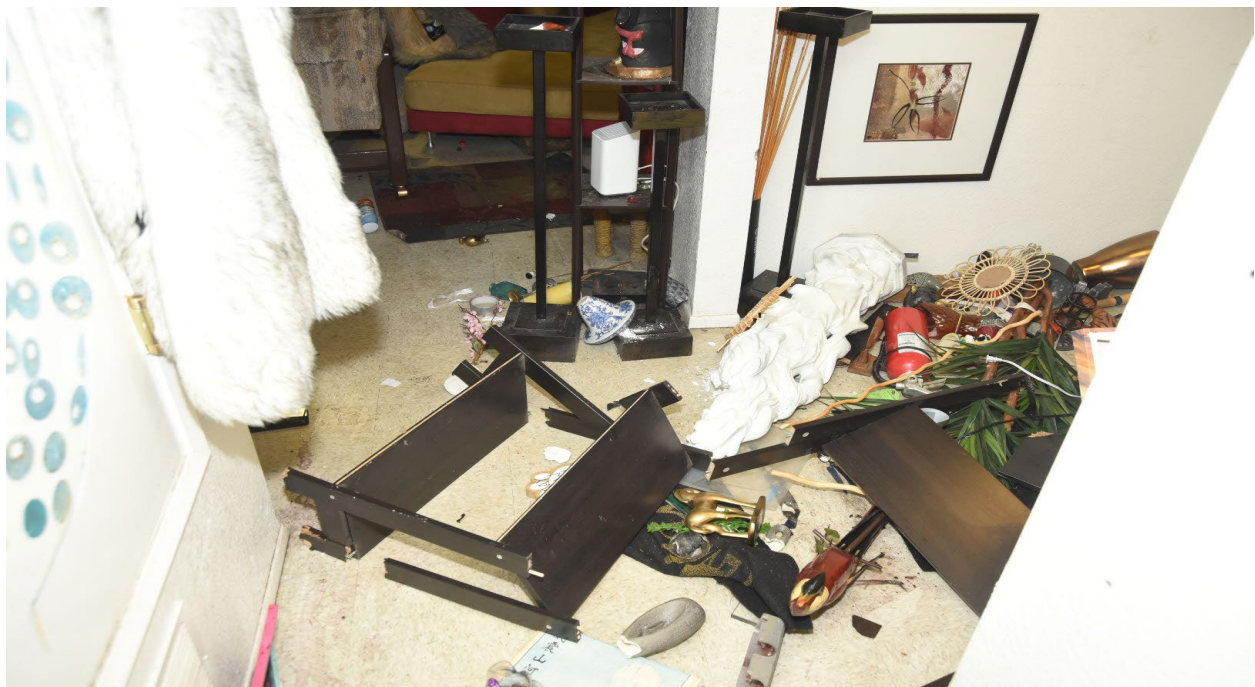


Figure 12-Interior of 1432 A Halibut Court and visible disarray.

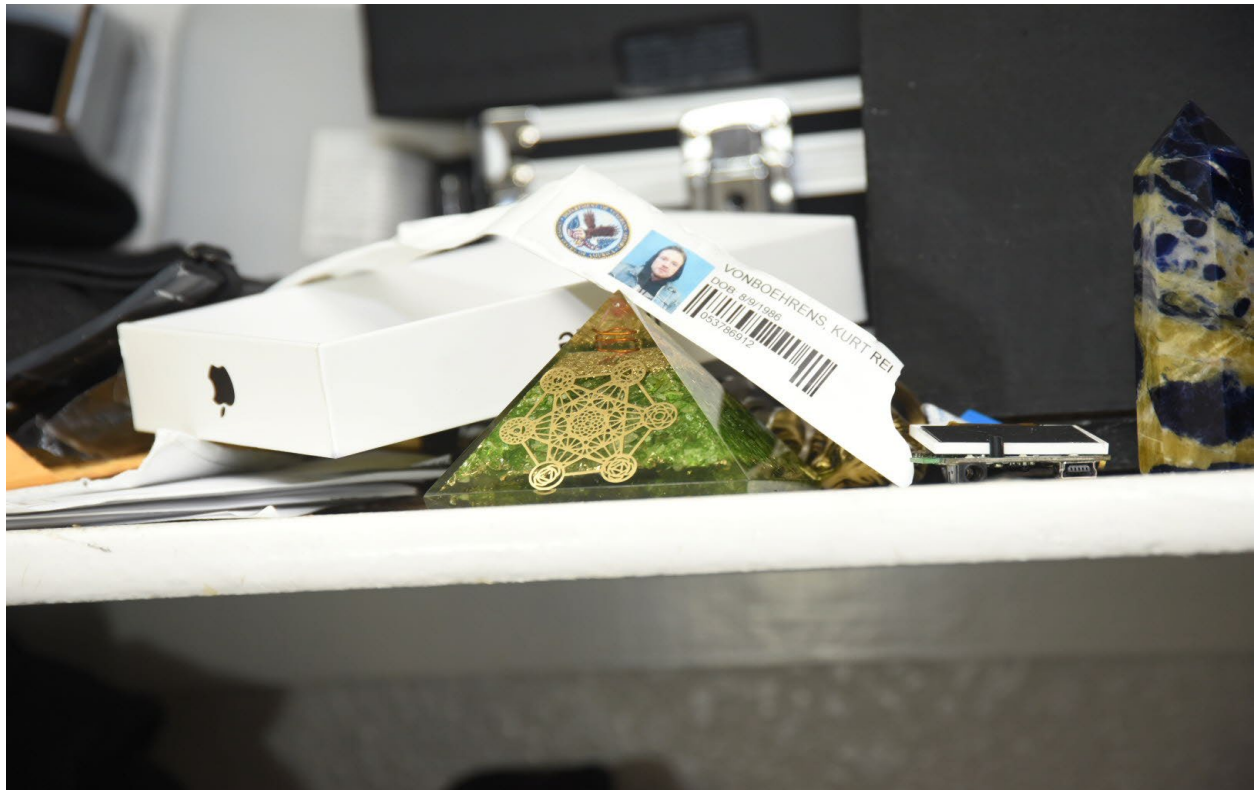


Figure 13-Item with VonBoehrens photo located inside 1432 A Halibut Court.

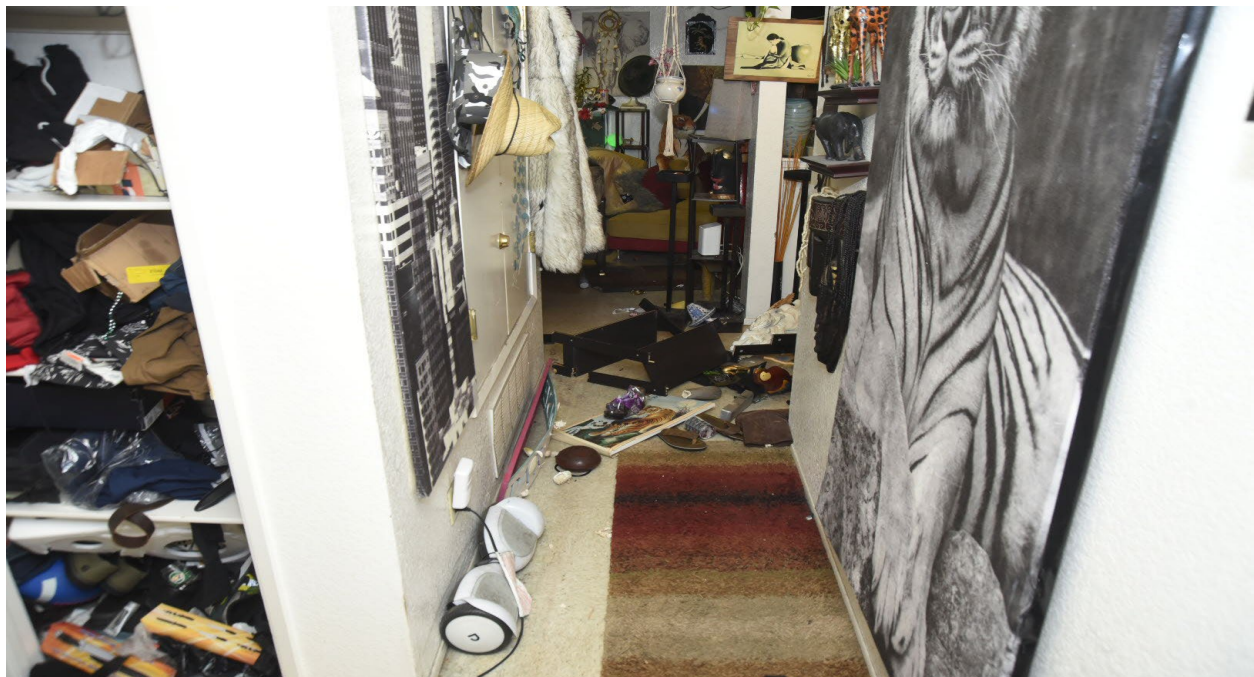


Figure 14-Interior photo of 1432 A Halibut Court and the visible disarray.



Figure 15-Interior photo of 1432 A Halibut Court and visible disarray.



Figure 16- Interior photo of 1432 A Halibut and visible disarray.



Figure 17-Photo of second piece of brown wig worn by V-1 from the interior of 1432 A Halibut Court.



Figure 18-Up-close image of one bottle of vodka found inside of 1432 A. Halibut Court.



Figure 19- Up-close image of a second bottle of vodka found inside 1432 A Halibut Court.



Figure 20-View from outside of the leasing office unit at 1433 F Halibut Court and the damaged window taped by SFFD.



Figure 21-Damage to the interior of the leasing office unit at 1433 F Halibut Court and the damaged window looking into the office area.



Figure 22-Damage to the interior of the leasing office unit at 1433 F Halibut Court and broken window.



Figure 23-Broken glass and a close-up perspective of the damaged interior of the leasing office unit at 1433 F Halibut Court with a red substance later confirmed to be blood.

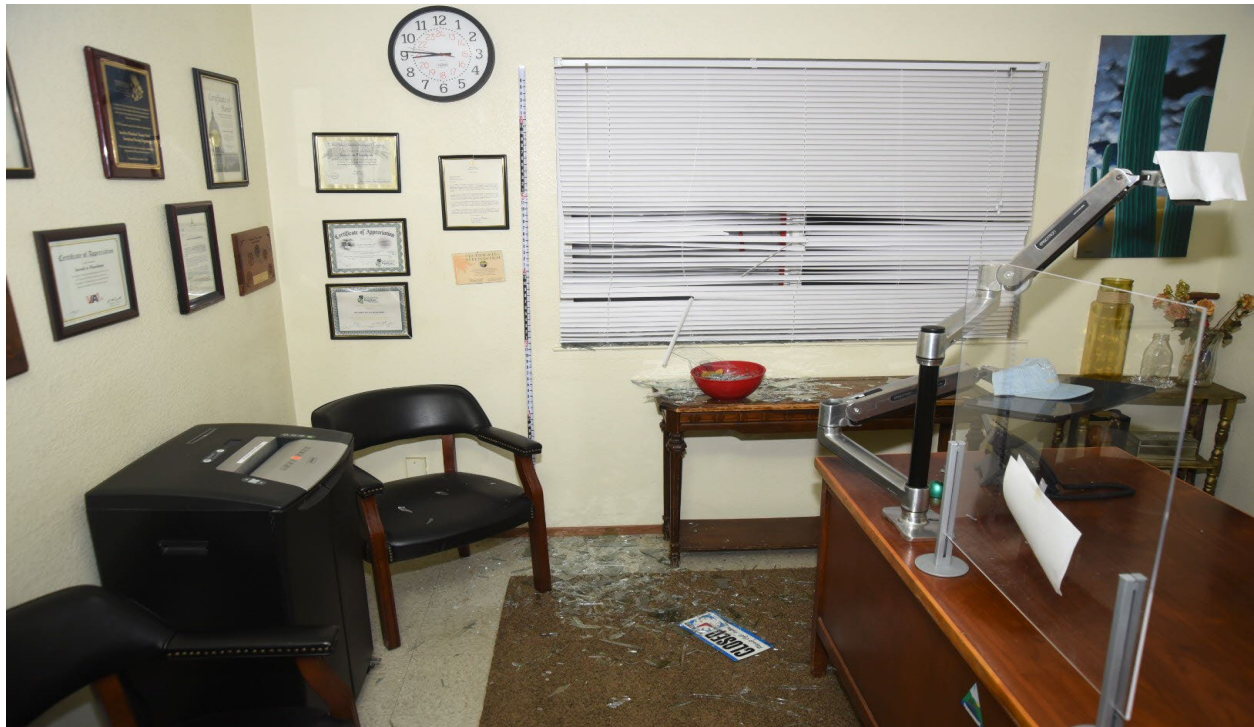


Figure 24-Damage to the interior of the leasing office unit at 1433 F Halibut Court.



Figure 25-Interior of the leasing office unit at 1433 F Halibut Court and the large cement rock thrown by VonBoehrens through the office's window.



Incident Scene Evidence Recovery

All physical and scene evidence was collected and processed by criminalists from the San Francisco Police Department's Crime Scene Investigations Unit (CSIU) and responding officers.

BWC footage from 12 different SFPD officers of the events were provided for investigators to review. The videos provided insight and documented SFPD's initial response, SFPD's participation, civilian assistance, and medical care provided.

Body Worn Camera Video Footage

Both Tov and Gabriel activated their body worn cameras (BWC) which captured the scene and sounds of the initial encounter with VonBoehrens who stood in front of the Halibut Court's leasing office unit at 1433 F Halibut Court. Within seconds of the officers' arrival, the footage showed VonBoehrens as he hurled a large object through the glass window of the leasing office. The sound of glass breaking was quickly punctuated by the officers' yelling to VonBoehrens "Hey! Come here! Get on the ground!" as they approached VonBoehrens who appeared in the video frame to be extremely deranged and unwell.

VonBoehrens' physical appearance amply evidenced his mental unwellness. He appeared disoriented, extremely wet, disheveled, and distressed. As officers neared VonBoehrens, VonBoehrens turned and tried to jump through the broken window which had visible large shards of glass jutting out from the frame.

Both Tov and Gabriel grabbed VonBoehrens with their hands on his upper torso. One of the officers in response to VonBoehrens's repeated pleading to not hurt him responded "You are not in trouble!" VonBoehrens continued to plead for help and for the officers to "make it stop" or to "give [him] something" VonBoehrens gave limited indication to the officers that he understood them or their purpose but continued to struggle violently and scream intermittently that he "need[ed] help" and that he loved them. VonBoehrens had blood on his hands from an unknown source. It took Tov and Gabriel with the firefighters almost two minutes (one minute and 51 seconds), to secure VonBoehrens' hands while he was held on his stomach. A firefighter was visible on BWC by VonBoehrens' shoulders as another firefighter held VonBoehrens' legs. VonBoehrens was rolled partially on his side as an officer asked him if it "would be cool" if he placed VonBoehrens on his side. VonBoehrens did not respond but continued to scream and struggle. VonBoehrens then said he could not breathe but continued to scream and struggle while again telling the first responders that he loved them.

After four minutes and three seconds, as firefighters and paramedics placed the soft restraints, Tov commented to the other first responders that VonBoehrens was not moving and needed to be placed on his side. In response, VonBoehrens was rolled to his side and continued to scream and buck as he was held on his side, in place. VonBoehrens was briefly placed back on his stomach as the first responders struggled to remove the metal cuffs to place him on the spine board with soft restraints. Another three minutes and 12 seconds passed, and with the police handcuffs successfully removed, VonBoehrens was placed on his back, appeared to lose consciousness but was breathing. Some of the first responders complained that VonBoehrens had spat at them which caused firefighters to place a spit mask on him. Firefighters asked VonBoehrens his name but received no response likely because he was not clearly conscious. BWC footage from the same moment reviewed, showed VonBoehrens' chest and belly closeup and that he was clearly breathing as his chest rose and fell rhythmically on video.



Paramedics immediately assessed vitals as VonBoehrens lay on his back tied to the spine board. His chest and belly continued to rise and fall rhythmically but VonBoehrens was no longer screaming or speaking. From all available body camera footage, VonBoehrens was on the ground alternating from lying on his stomach, then his side, and then finally on his back as he was placed on the spine board. Once placed on the spine board, VonBoehrens appeared to vomit a clear liquid and to be unconscious. A male voice of one of the first responders tells VonBoehrens to “stay with [them].” VonBoehrens’ breathing is again checked as his chest and belly rise and fall rhythmically and he was determined to be “still breathing.” Over eight minutes elapsed from police arrival to VonBoehrens being placed and restrained on the paramedics’ spine board.

Medics became concerned and prepared the defibrillator to apply to VonBoehrens as they commented that he was breathing. Paramedics commented that VonBoehrens breathing might be “agonal” and noted his breathing had changed. Fifteen minutes and seven seconds into the encounter, medics began chest compressions to revive VonBoehrens who was now unconscious. Narcan was nasally administered as an opioid reversal medicine as firefighters continued to administer compressions to re-start VonBoehrens’ heart. Neighbors and onlookers stood by and watched police and firefighter efforts and later agreed to be interviewed by investigators.

An ambulance arrived within 19 minutes after the police first arrived on scene, as firefighters and medics on scene continued to provide CPR. VonBoehrens was placed on a stretcher and transported to San Francisco General Hospital (SFGH) where he died at 11:18 p.m., on March 16, 2022, approximately six hours after he was admitted to the Intensive Care Unit (ICU) at SFGH.



Figure 26-VonBoehrens, as he appeared to officers, in a capture taken from BWC footage.



Figure 27-Tov reached for VonBoehrens as VonBoehrens jumped through a broken window.



Figure 28-Gabriel and Tov both grabbed and held VonBoehrens as they dragged him out of bushes and away from the window.



Figure 29-A firefighter appeared near VonBoehrens' upper body. VonBoehrens' hands appeared in the lower portion of frame.



Figure 30-A firefighter with a knee and hand partially on VonBoehrens upper back near his head as he lay face down on ground.



Figure 31-VonBoehrens partially on his side as first responders held him in place.



Figure 32-VonBoehrens face down with first responders holding him in place.



Figure 33-VonBoehrens on his stomach with first responders who held him in place after he was handcuffed.



Figure 34-VonBoehrens held in place on his stomach for application of soft restraints.



Figure 35-Firefighters attempted to roll VonBoehrens back onto his side.



Figure 36-First responders have VonBoehrens held in place and on his side.



Figure 37-Fire and paramedics continued to hold VonBoehrens in place and on his side.

Autopsy, Post-Mortem Examinations, and Toxicology Results

An autopsy (post-mortem examination) was performed by the Office of the Chief Medical Examiner (OCME) between March 18-21, 2022. Attending medical examiner and pathologist Dr. Ellen G. Moffatt determined that VonBoehrens' death was caused by the "toxic effects of ethanol (alcohol) and methamphetamine during exertion and physical restraint" that likely led to a cardiac arrest (his heart stopped beating). Other physical conditions of VonBoehrens that were noted and potentially causal to his death were hypernatremia³ (a high concentration of sodium in the blood caused by extreme dehydration) and a history of rhabdomyolysis (a condition in which damaged skeletal muscle breaks down rapidly, often due to high intense exercise over a short period of time but also is a physical symptom and evidence of long-term alcohol and drug use).⁴

Dr. Moffatt classified the manner of the death as "Undetermined" and the method or cause as "Other," reporting that the "[t]oxic effects of ethanol and methamphetamine during exertion and physical restraint" as the primary cause of death.

Dr. Moffatt documented additional evidence of VonBoehrens' recent physical injuries, specifically abrasions to his head and face, bruises to his back, and additional abrasions and bruises to his extremities consistent with reports that VonBoehrens had fought and struggled with V-1, police, firefighters, and other civilians. In the comments section of Dr. Moffatt's report, she added:

³ [Hypernatremia - StatPearls - NCBI Bookshelf](#); Hypernatremia; Bhavin Sonani; Srividya Naganathan; Mohammed A. Al-Dhahir.

⁴ Richards JR. Rhabdomyolysis and drugs of abuse. *J Emerg Med.* 2000 Jul;19(1):51-6. doi: 10.1016/s0736-4679(00)00180-3. PMID: 10863119.



“The decedent died as a result of toxic effects of methamphetamine and alcohol, combined with physical exertion and struggle/physical restraint. Death from substance use is usually mannered accident. Deaths from restraint and struggle are often mannered homicide. The manner [of death] is best classified as undetermined.”

Medical examiner investigator Anthony Marchini (#131) documented in his report efforts by medics on scene once they discovered the medical emergency, the cardiopulmonary resuscitation (CPR), which continued during transport, the administration of three rounds of epinephrine (to stimulate VonBoehrens’ heart), and transportation to SFGH where VonBoehrens was admitted. Marchini documented as paramedics arrived that CPR was being performed on VonBoehrens. The medical staff at SFGH in the Emergency Department continued CPR for five minutes and a pulse was obtained. A computer tomography (CT) scan revealed that VonBoehrens’ brain had been deprived of oxygen and had an anoxic injury due to oxygen deprivation. VonBoehrens was transferred to the ICU “maxed on fourpressers,” given high doses of steroids, multiple grams of calcium, and multiple ampoules of bicarbonate^{5,6} all in effort to revive him. But VonBoehrens became hypotensive while hospitalized and coded. CPR was re-initiated as well as two more rounds of epinephrine to no avail. VonBoehrens was pronounced deceased at San Francisco General Hospital (SFGH) emergency department (ED) while in the intensive care unit (ICU) by resident physician Smitha Ganeshan.

Of significance, Marchini noticed that VonBoehrens’, declared dead at 2318 hours (11:18 p.m.) body was “slightly warm to the touch” with no sign of rigor mortis when collected almost two hours later.⁷ Marchini documented his collection of ante-mortem blood samples taken from VonBoehrens by SFGH. The medical investigation by Investigator Marchini also documented the discovery of VonBoehrens history of opioid use, chronic hepatitis-C diagnosis, and an acute (unrelated to the incident) kidney injury. VonBoehrens’ mother was listed as his next of kin.

Additional Medical Review

At the request of the IIB, an additional medical review and second opinion was provided as to the cause and manner of VonBoehrens’s death by Dr. Michelle Jorden, Chief Medical Examiner-Coroner for the Santa Clara County Medical Examiner Coroner. Dr. Jorden is specialty trained as a forensic neuropathologist and has worked as a medical examiner for over 15 years.

Investigators met with Dr. Jorden who agreed to review the entire medical case file as well as the documents related to the arrest of VonBoehrens, and BWC footage all previously shared with Dr. Moffat. Dr. Jorden was additionally able to obtain a copy of the medical records from SFGH as well as the SFFD’s emergency medical service record (EMS) for care provided to VonBoehrens.

Ultimately, Dr. Jorden agreed with Dr. Moffat’s opinion that VonBoehrens death was caused by the toxic effects of alcohol (ethanol) and methamphetamine combined with the amount of high energy exertion, which according to on-scene witness accounts, involved multiple locations and

⁵ Sodium bicarbonate is a salt and although some controversy exists for its use in the event of cardiac arrest, it has been shown to improve patients who experience pre-hospitalization cardiac arrest. (Source: [Use of Sodium Bicarbonate in Cardiac Arrest: Current Guidelines and Literature Review - PMC \(nih.gov\)](#))

⁶ Vasopressors are utilized in an acute intensive care situation and allow forced muscular contractions of the heart and are combined with inotropic agents or inotropes which are medicines that change the force of the heart’s contractions.

⁷ The SF OCME received the notice of death at 12:09 a.m. on 3/17/2022.



persons, and spanned hours before fire or police arrived. Dr. Jorden further opined that VonBoehrens at the time of admission to the hospital was most likely experiencing a condition known among medical professionals as hyperactive delirium with severe agitation (HDSA). Dr. Jorden based this opinion on the autopsy findings of Dr. Moffatt, the behaviors of VonBoehrens, his physical condition, and the fact that VonBoehrens' core body temperature remained elevated even into the hours after he was pronounced.

Dr. Jorden explained that HDSA is a clinician supported medical diagnosis used to describe an individual who, along with delirium symptoms, presents in an extremely aroused or hyperactive state due to the use or combined use of a stimulant type of drug like methamphetamine and the depressant nature of alcohol. Dr. Jorden also noted the hypernatremia (elevated sodium levels and extreme dehydration) as an active concomitant condition and a likely contributor to what were ultimately multiple cardiac events suffered by VonBoehrens as additional evidence to confirm the HDSA event. Also included in Dr. Jorden's opinion was confirmation of the presence of rhabdomyolysis as an additional condition suffered by VonBoehrens and not inconsistent with prolonged drug use.

Toxicology

Both medical pathologists Moffat and Jorden received and incorporated into their findings the toxicology results provided by the OCME's Forensic Laboratory Division which analyzed blood samples taken ante-mortem from VonBoehrens on March 16, 2022, at 5:08 p.m. by SFGH staff.

At time of draw, the three blood samples taken from VonBoehrens were positive for ethanol (alcohol) at .15% (+/-0.007) weight by volume, naloxone (opioid reversal medication), methamphetamine (central nervous system stimulant) (490 (+/- 120) ng/mL)⁸, and amphetamine (metabolite of methamphetamine) (100 (+/- 19) ng/mL). Both alcohol and methamphetamine were present, and their metabolite concentration indicated recent use of each. The presence of naloxone was attributed to the administration of NARCAN™ (opioid reversal medication) during the medical emergency.

⁸ Ng/mL stands for nanograms per milliliter. It is a unit of measurement used to express the concentration of a substance in a liquid. In drug testing, ng/mL refers to the concentration of a drug or its metabolites in a urine or blood sample. Toxic levels of methamphetamine in blood report at >500 ng/mL. Source: [CLR 2019-20 Toxicity.pdf](#)



City and County
of
San Francisco



FORENSIC LABORATORY DIVISION

Office of the
Chief Medical Examiner

REPORT OF FORENSIC TOXICOLOGY ANALYSES

Name:	VON BOEHRENS, Kurt	SFOCME Case No.:	2022-0347
Submitter:	Moffatt, Ellen, MD	Submission Date & Time:	03/21/2022 0745 hrs
Sub. Ref. No.:	N/A	Date of Report:	04/08/2022

SPECIMENS ACCESSIONED

SPECIMEN TYPE	SPECIMEN ID	VOL (mL)	COLLECTED	DESCRIPTOR(S)	PROTOCOLS
Blood (Peripheral)	357865	9	03/18/2022 1121 hrs		
Blood (Cardiac/Central)	357866	10	03/18/2022 1121 hrs		
Vitreous Humor	357867	6	03/18/2022 1121 hrs	Cloudy.	
Urine	357868	1	03/18/2022 1121 hrs	Cloudy, pink.	
Gastric Contents	357869	1	03/18/2022 11/21 hrs		
Fluid (Foley Urine)	357870	2	03/18/2022 1121 hrs	Bloody.	
Blood (AM)	L0455	2	03/16/2022 1708 hrs	Light blue top.	GCET, LCQB, LCQC
Blood (AM)	L0456	1	03/16/2022 1708 hrs	Clear lavender top.	

ANALYTICAL RESULTS

SPECIMEN TYPE	SPECIMEN ID	COMPONENTS DETECTED			PROTOCOL PERFORMED
Blood (AM)	L0455	Ethanol	0.155 ±0.007	% (w/v)	GCET/GCET
Blood (AM)	L0455	Naloxone	9.9 ±2.6	ng/mL	LCQB, LCQB
Blood (AM)	L0455	Methamphetamine	490 ±120	ng/mL	LCQB, LCQB
Blood (AM)	L0455	Amphetamine	100 ±19	ng/mL	LCQB, LCQB

Figure 28-A screen shot of the OCME toxicology analysis of an ante-mortem blood sample tested by the OCME.

Sodium levels in the blood samples taken from VonBoehrens’s vitreous fluid, which is fluid that surrounds the eye, registered elevated levels of sodium (152 mmol/L) as seen in Figure 29, below. Elevated sodium levels are called “hypernatremia.” While sodium helps to regulate blood pressure and cells to conduct electrical activity, too much sodium (imbalance between water and salt ratios) may cause an imbalance in electrolytes, orthostatic hypotension (significant drop in blood pressure), and tachycardia (elevated heart rate 100+ beats per minute) leading to stroke, heart failure, or sudden cardiac death. Doctors define hypernatremia as a measurement of over 145 milliequivalents per liter while normal levels of sodium are between 136-145 milliequivalents per liter. Symptoms of hypernatremia include muscle weakness, confusion, muscle spasms, restlessness, extreme thirst, confusion, lethargy, irritability, seizures, and unconsciousness.⁹

Severe electrolyte imbalance may cause serious problems such as an irregular or elevated heartbeat (arrhythmia), coma, and even death from sudden cardiac arrest.¹⁰ The higher levels of chloride (hyperchloremia) are consistent with higher sodium levels and as an electrolyte it is expected to be in the “normal” range which is between 90 and 107 milliequivalents of chloride per liter of blood (mmol/L).¹¹ Given the sampling from vitreous fluid, the elevation of chloride for VonBoehrens is significant based on the overall toxicology results. (See Figure-29 below.)

⁹ <https://www.webmd.com/a-to-z-guides/what-is-hypernatremia>

¹⁰ [Electrolyte Imbalance: Types, Symptoms, Causes & Treatment \(clevelandclinic.org\)](https://www.clevelandclinic.org/health/condition/electrolyte-imbalance)

¹¹ [Hyperchloremia \(High Chloride Levels\): Treatment and Causes \(healthline.com\)](https://www.healthline.com/health/hyperchloremia)



City and County
of
San Francisco



FORENSIC LABORATORY DIVISION

Office of the
Chief Medical Examiner

REPORT OF FORENSIC BIOCHEMISTRY ANALYSES

Name:	VON BOEHRENS, Kurt	SFOCME Case No.:	2022-0347
Submitter:	Moffatt, Ellen, MD	Submission Date & Time:	03/21/2022 0745 hrs
Sub. Ref. No.:	N/A	Date of Report:	04/08/2022

SPECIMENS ACCESSIONED

SPECIMEN TYPE	SPECIMEN ID	VOL (mL)	COLLECTED	DESCRIPTOR(S)	PROTOCOLS
Vitreous Humor	357867	6	03/18/2022 1121 hrs	Cloudy.	REF(1919FL)

ANALYTICAL RESULTS

SPECIMEN TYPE	SPECIMEN ID	COMPONENTS DETECTED			PROTOCOL PERFORMED
Vitreous Humor	357867	Creatinine	0.667	mg/dL	REF(1919FL)
Vitreous Humor	357867	Sodium	152	mmol/L	REF(1919FL)
Vitreous Humor	357867	Potassium	13.6	mmol/L	REF(1919FL)
Vitreous Humor	357867	Chloride	131	mmol/L	REF(1919FL)
Vitreous Humor	357867	No Glucose Detected			REF(1919FL)
Vitreous Humor	357867	Urea Nitrogen	10.0	mg/dL	REF(1919FL)

Figure 29- Screen shot of the OCME toxicology analysis of vitreous fluid samples tested by the OCME.

Involved Police Personnel

San Francisco Police Department Officers Tov and Gabriel were involved in the incident but did not provide criminal investigators with a voluntary statement.

Interviews of Involved Fire Personnel

The statements below are summaries of key interviews conducted and are not verbatim, as only information that is material to the investigation is included in this report. Although 21 witnesses spoke to investigators, not all 21 witness interview statements are included in this report.

W-2 – E. Storey

SFFD Lieutenant Storey responded to a fire alarm activated at 1432 Halibut Court. Once on scene, several people were in front of the unit yelling “He’s [VonBoehrens]) in there, they’ve been fighting for an hour!” Storey approached the unit and heard what he believed was the sound of someone trying to get out of the unit. Storey determined that at least one person inside the apartment unit was being held against their will. Based on that concern, Storey contacted SFPD to assist with what he believed was a criminal matter.

Storey told investigators he saw VonBoehrens run across Halibut Court to a building on the opposite side of the street. Storey told police investigators that he also heard VonBoehrens shout and make incoherent sounds. Storey watched as VonBoehrens picked up a large cement rock and threw it through the office window. Tov and Gabriel were present by then and immediately pulled VonBoehrens out of the window at his waist and took him down to the ground. Storey then went back to the initial call to help evaluate V-1.



W-3 – G. Thompson

Thompson, a firefighter with the SFFD, arrived on scene and saw VonBoehrens run across the street yelling, “I need help!” G. Thompson described VonBoehrens as “frenzied” and “very excited.” G. Thompson, based on training and experience, formed an opinion that VonBoehrens was potentially under the influence of a controlled substance or illegal drug.

G. Thompson reported he heard glass breaking and saw Tov and Gabriel pull VonBoehrens out of the window and onto the ground. G. Thompson reported he saw the officers attempt to restrain VonBoehrens’ leg but were unable because VonBoehrens kicked his legs out of the control hold. G. Thompson retrieved a spine board to place VonBoehrens on and assisted by holding VonBoehrens’ leg down while another firefighter applied soft restraints to each leg one at a time. G. Thompson stated one of the police officers assisted with the hold on the other leg. Once the soft restraints were placed on VonBoehrens, he was placed on to his back so the restraints could be tied to the spine board.

Because VonBoehrens was thrashing violently and spitting, G. Thompson ordered a spit mask to prevent VonBoehrens from spitting on anyone. G. Thompson saw that VonBoehrens was breathing at this time, did not appear to be in any type of respiratory arrest, left to retrieve an item from the fire truck and was not present when VonBoehrens went unconscious.

W-7 – B. Mark¹²

Mark, a paramedic¹³ with the SFFD, also responded to Halibut Court. Mark told investigators he and other firefighters approached V-1’s unit and immediately saw broken glass and discovered a locked door. Mark knocked on the door and a frantic male voice responded that he was being held hostage. Mark and the firefighters retreated and called for SFPD. Mark reported he saw VonBoehrens run from across the street while screaming. Mark reported VonBoehrens picked up a rock and threw it through a window, shattering it, just as officers arrived. Mark watched VonBoehrens attempt to crawl through the window and saw the officers pull him out and place VonBoehrens on the concrete where he continued to scream and thrash his body on the ground.

Mark and an unknown number of firefighters helped the officers restrain VonBoehrens as the officers struggled to handcuff VonBoehrens. VonBoehrens lay prone on the ground while screaming and flailing his body. One firefighter knelt on VonBoehrens’ legs while the others, along with Mark, grabbed VonBoehrens’ limbs to prevent him from hurting himself or the people trying to subdue him.

Mark reported to investigators that he would typically consider sedating a person in this circumstance. But because firefighters had responded to the fire alarm, they did not dispatch an ambulance which contained medications used for sedation. Mark suggested keeping VonBoehrens’ status quo until the called for ambulance arrived. Mark planned on sedating VonBoehrens when supplies arrived via ambulance which was on the way.

¹² To present information chronologically and with context, and for organizational reasons, not all witnesses documented in this report are presented in numerical order.

¹³ Both paramedics and EMTs are qualified to assess critical illnesses and injuries and provide first aid and life-saving treatment. However, paramedics are more highly trained and capable of more advanced medical procedures such as monitoring electrocardiograms (EKGs) and providing oral and intravenous medication.



Mark told investigators he thought VonBoehrens was in the prone position for approximately five minutes while the soft restraints were placed on him. A spit mask was only placed on VonBoehrens because he continued to “spit at everyone and all over the place.”

VonBoehrens was placed in a supine position (on his back) once the police handcuffs were removed. Mark saw the soft restraints being applied and tied to the spine board. This was when he noticed VonBoehrens was not making any noise but was still breathing. Mark confirmed VonBoehrens’ pulse. Because VonBoehrens was no longer resisting, Mark used a sternum rub and noted VonBoehrens did not move in response but was breathing and had a discernible pulse.

Mark concluded his evaluation of VonBoehrens and left the scene for approximately ten to fifteen seconds. He returned and saw VonBoehrens breathing was now labored, and he no longer had a pulse. Mark immediately began medical treatment for cardiac arrest. VonBoehrens’ pulse returned, and baseline blood pressure stabilized. Mark noted VonBoehrens was “diaphoretic” (damp or wet), likely from sweat.

W-8 – C. Cooper

Cooper, an EMT with the SFFD, was with the second unit to respond to Halibut Court scene and told investigators she saw a man (V-1) who appeared to be distressed and fearful. V-1 told her there was a guy in the house which corroborated the loud sounds Cooper heard coming from inside the apartment unit. Cooper entered the unit from the rear as VonBoehrens exited and pushed past her and another firefighter (W-9). VonBoehrens stumbled out of the unit breaking items as he went. Cooper described VonBoehrens demeanor as “loud, [without] focus, [with] a lot of energy and a little violent” and “[as if] in his own world.”

Cooper finished speaking to V-1 and saw VonBoehrens across the street face down and handcuffed with his hand behind his back as soft restraints were being applied. Cooper saw VonBoehrens was “kind of fighting to get up” and he was “trying to get out of it [custody].” She described seeing at least two firefighters holding VonBoehrens’s legs while two police officers were closer to the top half of his body above the waist also holding him. Cooper assisted in holding VonBoehrens’s by putting pressure on his right calf.

Cooper reported to investigators at no time did she see anyone putting pressure anywhere on VonBoehrens’ neck, head, or face.

Cooper observed emergency personnel struggled to put on the soft restraints and decided to assist them as well. It was then that she noticed VonBoehrens became quiet and calmer but was still conscious. Once those present realized that VonBoehrens was suffering a medical emergency, CPR was administered continuously until the ambulance arrived.

W-9 – D. Padilla

Padilla, an EMT with the SFFD, also responded to the rear of the apartment unit at 1432 A Halibut Court and observed V-1 who appeared disheveled and crying. Padilla also reported he heard noises from within the building and entered to see VonBoehrens jumping, thrashing, and screaming. VonBoehrens screamed words to the effect of “Help me!” and “Get me out of here!” and “Make it stop!” Padilla believed VonBoehrens was under the influence of some controlled substance or illegal drug. Padilla told VonBoehrens to calm down and relax, and that fire and police were there to help him. It was then that VonBoehrens jumped up and rushed towards Padilla aggressively. Padilla tried to stop VonBoehrens, but VonBoehrens shoved him and caused them both to



stumble. VonBoehrens then pushed past Cooper (W-8) and ran outside. Padilla checked on V-1 and after approximately 15 seconds he heard a sound like glass shatter. Padilla saw the officers pull VonBoehrens from the window and onto the ground.

Padilla described VonBoehrens lying face down and “resisting pretty violently” by physically kicking at officers or flailing even as he was handcuffed. Padilla assisted the police and firefighters and held VonBoehrens’s right arm while an officer held VonBoehrens’s left arm. Another police officer and firefighters were focused on VonBoehrens’s legs but had trouble controlling them as he continued to kick out and at them. A spine board and soft restraints were ordered so the first responders could get VonBoehrens out of the metal handcuffs and into the soft restraints which would be less likely to cause VonBoehrens injury. Padilla recalled that the officer across from him, who was focused on the left arm, was “was very cognizant of [VonBoehrens’] head, like...was [he] conscious and things like that” and continued to ask, “Is [VonBoehrens] breathing?” Padilla confirmed VonBoehrens was still breathing at the time by checking under the spit mask and maintaining a visual of VonBoehrens chest for movement.

Padilla stated that soft restraints were eventually placed on each of VonBoehrens’ limbs, and he was rolled onto his back and onto the spine board. Padilla personally placed the soft restraint on VonBoehrens’ right wrist. Padilla observed that VonBoehrens became lethargic but was breathing adequately, was not in distress, and had an open airway. Padilla described for investigators VonBoehrens’ declining agitation on a scale of 1-to-10, as “a ten, to like a six, to like a one.” When Padilla observed that VonBoehrens appeared more lethargic and had agonal (labored) breathing, Padilla checked for a pulse and noted it was weakening although VonBoehrens was still breathing. Padilla recounted that once VonBoehrens’s pulse was no longer discernible, and he was no longer breathing, fire personnel rendered aid. Padilla told investigators that the police officers were no longer engaged with VonBoehrens at this time.

Padilla did not see any first responder place any part of their body or apply any pressure to or near VonBoehrens’s shoulders, head or neck area. Padilla reported he was in a place to make these observations as he was closest to VonBoehrens’ head/neck area and stated that the first responders (including himself) “made a very conscious effort to not press on [VonBoehrens’] back or his neck.” Padilla told investigators he was aware that putting pressure in the area of VonBoehrens’ head, back or neck was not safe and not protocol.

Padilla told investigators he observed VonBoehrens was very sweaty, pale, and disheveled. Padilla told investigators he thought VonBoehrens was extremely agitated and “definitely altered” by an unknown stimulant based on his experience and training as an EMT.

W-10 – J. Hanley

Hanley, a tillerman (steersman of a firetruck) with the SFFD and on scene at Halibut Court that day, observed VonBoehrens, whom he described as “disheveled.” Hanley told investigators that VonBoehrens ran past him screaming, “Help! Help!” Hanley told investigators he saw as VonBoehrens ran past him that VonBoehrens was “soaking wet or sweating.”

Hanley heard a window break and then the next time he saw VonBoehrens was when he was lying supine (on his back) with two officers and several firefighters attempting to restrain him. Hanley secured the recently broken window and returned to the scene to see VonBoehrens was no longer breathing. Hanley joined the CPR effort.



Hanley told investigators he never saw anyone sitting across VonBoehrens' chest or back and that the first responders were "just holding [VonBoehrens'] arms and legs."

W-11– K. Lincoln

Lincoln, a firefighter with the SFFD, reported the same observations of VonBoehrens' physical state and agitation. Lincoln decided to help the officers because of the trouble restraining VonBoehrens. Lincoln approached as officers tried to handcuff VonBoehrens who struggled, kicked his legs and moved his upper body to resist. Lincoln observed substantially the same as the other first responders with respect to holds initiated to try and subdue VonBoehrens.

W-12 – R. Vigil

Vigil, a lieutenant with the SFFD, also reported he saw VonBoehrens run across the street, break a window, and attempt to enter an apartment through the broken window. Vigil reported substantially the same observations as the other first responders.

W-13 – T. Laxton

Laxton, a firefighter and EMT with the SFFD, told investigators he initially saw V-1 who appeared to be crying. Laxton also heard a commotion inside and saw VonBoehrens, who was wet and sweaty, run out of the building. Laxton believed VonBoehrens was "having some psychiatric issue or was high" because "he was acting extremely not [sic] stable, screaming, and getting very violent." Laxton told investigators he watched VonBoehrens run across the street, break a window, and become "extremely violent."

Laxton helped restrain VonBoehrens legs with soft restraints and tied them to the spine board. Laxton had shifted his attention to sealing the broken window when the medical emergency was declared. He also assisted with CPR.

W-14 – V. Davis

Davis, a firefighter with the SFFD, told investigators he saw VonBoehrens "running...hysterically...[and] just running across the street yelling, help me, help me!" Davis saw that VonBoehrens was sweating, pale white, and appeared to be "out of his mind." Davis then saw VonBoehrens break a window and that two officers grabbed him and struggled with him to the ground. Davis grabbed the spine board and soft restraints as other firefighters assisted the officers. Once soft restraints were secured, the medical emergency occurred with VonBoehrens, and CPR was started.

Interviews of Civilian Witnesses

The following statements are summaries of interviews with civilian witnesses and are not verbatim. And although 20 plus witnesses spoke to investigators, not all witness interview statements are included in this report.

V-1 – J.H.¹⁴

V-1 lives at 1432 Halibut Court and was interviewed by investigators about the events that began on March 15, 2022, and ended on March 16, 2022, with VonBoehrens arrest.

¹⁴ For civilian confidentiality, witnesses' full names will not appear in this report.



V-1 told investigators he has known VonBoehrens for approximately five years and that they were former neighbors who both lived at Swords-to-Plowshares as disabled veterans.¹⁵

V-1 stated VonBoehrens lost his housing at Swords to Plowshares approximately one year prior, due to alcohol and violence related issues, and was homeless. V-1 would allow VonBoehrens to stay at his place about three to four times per week. V-1 told investigators that he occasionally used methamphetamine but had not in the 72 hours prior to the events of March 16. V-1 reported that VonBoehrens also used methamphetamine but more frequently and often with alcohol.

Around 8:00 p.m. on March 15, 2022, VonBoehrens called and asked V-1 to “crash” at his apartment for the night. V-1 allowed him to enter. Sometime in the night, VonBoehrens began to pester V-1 for money because VonBoehrens told him he “needed” vodka. V-1 described VonBoehrens as a severe alcoholic who would experience “withdrawals” if he did not drink alcohol. Around 12 a.m., V-1 gave in and gave VonBoehrens \$20.00. VonBoehrens left the apartment. At 1:00 a.m., VonBoehrens returned with two bottles of vodka and began drinking while V-1 went to bed. VonBoehrens woke V-1 several times throughout the night to “whine” for more money to buy more alcohol. V-1 refused to give him more money.

At 9:00 a.m. the next day (March 16, 2022), VonBoehrens demanded money again and V-1 refused. VonBoehrens rummaged through V-1’s apartment to search for money. V-1 told investigators that VonBoehrens would “[get] weird the more he drinks” and that VonBoehrens appeared intoxicated the morning of March 16.

At 11:00 a.m., V-1 told VonBoehrens to leave the apartment and VonBoehrens left. V-1 noticed his cell phone and keys to his cars were missing but believed VonBoehrens hid the items inside the apartment and did not steal them.

At 2:30 p.m., VonBoehrens returned to V-1’s apartment, with a vodka bottle that still had “a little [alcohol]” left inside. V-1 did not know where VonBoehrens was or what he did for the three plus hours that he was gone. V-1 allowed VonBoehrens back into the home to complete a remote video court appearance with the San Francisco Veteran’s Court Judge and his (VonBoehrens’) Public Defender.

Once the video conference was over, VonBoehrens immediately began to “harass” V-1 for money to buy more alcohol. VonBoehrens knocked over several items within the living room and taunted V-1 by stating, “What are you going to do?” VonBoehrens would act erratically but then assume a physical posture of knees bent, back hunched, elbows tucked in with his forearms raised vertically and palms out, which V-1 understood to mean “don’t hurt me.” Later at approximately 3:30 p.m., VonBoehrens sat on the couch in V-1’s apartment and acted as if nothing happened. In exasperation, V-1 told VonBoehrens he needed to leave, and he couldn’t sleep there anymore. VonBoehrens ignored V-1 and did not leave.

V-1 told investigators that he believed VonBoehrens was not taking him seriously, which caused him discomfort. V-1 told VonBoehrens, “if you sleep here, you won’t wake up.” V-1 told investigators he issued the threat to get VonBoehrens to take him seriously and to convince him to leave. Instead, VonBoehrens mocked V-1 and stated, “Oh, I’m not going to wake-up here?”

¹⁵ Swords to Plowshares established in 1974, is a 501(c) organization primarily in the Bay Area that provides many services to veterans and their families at no or low cost. Services include housing, legal, and job support. Source: swords-to-plowshares.org



VonBoehrens then stood up from the couch, picked up a small table and threw it out of the bedroom.

V-1 opened the front door and told VonBoehrens that he “needed to get out” and that he didn’t want any trouble or anyone to get hurt. VonBoehrens picked up another item that belonged to V-1 and threw it through the opened front door. VonBoehrens stood between the door frame and the open door and threw additional items onto the floor and out the front door. V-1 tried to push the front door closed to get VonBoehrens out of the apartment. However, VonBoehrens leaned and pushed against the door to prevent it from closing. During the struggle, VonBoehrens grabbed the fire alarm mounted on the exterior wall and activated the alarm. V-1 lost his footing against the door and VonBoehrens forced his way back into the apartment.

VonBoehrens then attacked V-1 and used his left arm to put V-1 in a headlock. V-1 escaped the headlock and the two separated. V-1 believed VonBoehrens had attempted to “choke him out” and was fearful for his safety. V-1 went to the kitchen to get water while VonBoehrens resumed damaging V-1’s property inside the home.

When SFFD arrived V-1 ran to the front door. VonBoehrens followed V-1 and tried to place him in a bear hug from behind. V-1 tried to break free but was unable to move to the front door. SFFD asked if there was a fire and V-1 recalled he told them, “There’s no fire ... go to the back!” V-1 shoved VonBoehrens away and ran for the back door but was unable to escape because VonBoehrens grabbed V-1 and placed him in another much stronger bear hug. V-1 nevertheless was able to break free and ran to the backyard where he told SFFD that VonBoehrens was still inside.

V-1 believed the entire physical altercation with VonBoehrens from the fight at the front door to his eventual escape out the back door, lasted about 30 minutes. V-1 estimated the total damage to his property to be over \$500. V-1 did not report any physical injury.

W-1 - D.D.¹⁶

W-1 lived across the street from V-1. W-1 told investigators he heard the fire alarm for V-1’s apartment unit at approximately 2:45 p.m., looked outside his window located on the second story, and saw VonBoehrens running up and down the street.

W-1 believed VonBoehrens was under the influence of fentanyl or methamphetamine based on previous interactions with him. W-1 went outside and attempted to intervene by telling VonBoehrens to “calm down” several times but was unsuccessful. VonBoehrens ran to the leasing office, picked up a large rock, threw it through the front window, and began to climb through the broken window.

D.D. told investigators police had arrived and told VonBoehrens to calm down to no avail. VonBoehrens tried to climb through the broken window when both officers grabbed him, and all three men fell to the ground. W-1 saw VonBoehrens struggle with the officers while on the ground, dislodging one of the officer’s body worn cameras during the struggle. W-1 stated in his opinion several times during the interview that “the officers [who struggled with VonBoehrens] were doing the best they [could]” and that “they were being professional.”

¹⁶ W-1 appeared to be the same unidentified Black male adult who assisted firefighters and police with subduing VonBoehrens and who appeared on camera footage and told VonBoehrens to “Be still!” and to “Relax!”



W-4 – T.T.

W-4 was outside of her unit when she heard screaming and what sounded like “banging and crashing of big clay pots.” T.T reported she looked and saw VonBoehrens stumble across the street. T.T. told investigators VonBoehrens’ face appeared beet red, he was sweating and wore only one shoe. She saw VonBoehrens look at several doors of surrounding units before he attempted to get into a truck that was located across the street. VonBoehrens could not get into the truck and ran back towards one of the apartments when she heard an unknown loud crash.

T.T. saw two SFPD officers arrive and followed VonBoehrens as she lost sight of them. But she could still hear what was happening outside and heard VonBoehrens tell the police, “You’re not taking me! I am not going with you!” T.T. recalled she saw a neighbor tell VonBoehrens that he had to calm down. T.T. then heard a window break as EMTs arrived.

T.T. commented that VonBoehrens “looked really sweaty” and offered he also appeared “like ... he was on something or really drunk.” T.T when asked about the police’s actions told investigators that she did not “see that the cops [do] anything wrong” and “that they [the police] were actually pretty[sic] professional.”

W-5 – J.T.

J.T. was interviewed by investigators and has known VonBoehrens for about seven years. He knew VonBoehrens “had an alcohol problem,” and that once VonBoehrens would start to drink things would get “really bad.” J.T. lived next to V-1 and told investigators that the night before he heard VonBoehrens make noises throughout the night that kept J.T. awake. J.T. told investigators the walls in his apartment unit are thin and he can hear things happening next door.

J.T. told investigators that he is aware that V-1 had a romantic affection for VonBoehrens and around 12 or 1 p.m. on March 16, reported he heard V-1 yell and VonBoehrens yell as if V-1 and VonBoehrens were in a fight. J.T. told investigators he heard V-1 yell “get out” and then VonBoehrens yell back he would leave. J.T. then heard silence and decided to step outside his apartment to smoke a cigarette.

J.T told investigators that was when he heard loud noises from V-1’s unit again, saw the door suddenly open, and VonBoehrens “...running through the building like a madman” towards the leasing office. J.T. saw W-1 (D.D.) try to stop VonBoehrens, but VonBoehrens pushed W-1 away, picked up a rock, and threw it through the leasing office window. J.T. saw VonBoehrens try to jump through the window he broke just as SFPD arrived and pulled him from the window.

J.T. recalled he told VonBoehrens from across the street to “Be still, gotta [sic] be still Kurt, you keep moving” because “he wasn’t being still.” J.T told investigators, “When Kurt starts drinking, he likes to resist arrest until he gets beat up and bruised up, and will then say, ‘Look what [police] did to me.’”

J.T. stated based on his knowledge of and friendship with VonBoehrens that VonBoehrens “...drinks [alcohol] every day, will drink anything...(even) hand sanitizer.” J.T. told investigators that VonBoehrens “loves alcohol” but when asked if VonBoehrens was limited to alcohol J.T. responded VonBoehrens “does everything [in terms of illegal drugs] and [was] like a garbage can.”



W-6 –M.L.

M.L. met with investigators and told them the day of the incident she had heard V-1 and VonBoehrens arguing all day. M.L. said she heard V-1 tell VonBoehrens to “get out of my house” and VonBoehrens yell that he needed help.

M.L. told investigators she saw VonBoehrens run from across the street as two police officers arrived. The officers ordered VonBoehrens to step away from the window and to put his hands behind his back. But VonBoehrens broke the window with a rock and tried to enter the building. Two police officers pulled VonBoehrens from the broken window and all three men fell into some bushes. Then M.L. saw three to four firefighters and one neighbor had jumped in to help place VonBoehrens face down and restrain him. Investigators asked M.L. what she saw the police and firefighters do and responded she saw one officer on VonBoehrens’s waist area while the other officer focused on VonBoehrens’s arms. The neighbor who helped had his knee on VonBoehrens’s upper back/neck area and was telling him to stop resisting. The firefighters focused on VonBoehrens’s legs.

M.L. saw the police handcuff VonBoehrens, place him on his back, and then attempt to tie him to the gurney. The two officers held VonBoehrens’s arms while the firefighters placed soft restraints on him. M.L. believed VonBoehrens went unconscious because his body would not respond to anything and then he would “come back.” Emergency personnel were able to get VonBoehrens to regain consciousness she saw because VonBoehrens would start screaming again. M.L. told investigators that VonBoehrens “wasn’t trying to stay down” and “wasn’t listening [to police].”

Kurt VonBoehrens - Background

VonBoehrens, D.O.B. 8/9/86, was 35 years of age and a resident of San Francisco, California at the time of his death on March 16, 2022. At time of death, VonBoehrens stood at 5’11” and weighed 204 pounds. The only next of kin denoted at the time of autopsy was his mother.

VonBoehrens had at least one criminal matter pending in the Veteran’s Justice Court (VJC) which is a statutorily created program in California designed to address the specialized needs of veterans who face criminal charges by providing them with social services, educational and vocational support, and mental health.¹⁷

Records of criminal matters for VonBoehrens revealed that he indeed appeared in court by video conference for a progress report in his court ordered program in VJC on March 16, 2022.¹⁸ V-1 reported to investigators that VonBoehrens attended a court video conference with his Deputy Public Defender in the hours before the incident with police.

VonBoehrens also had a prior criminal case in which he was charged with a crime of violence in 2018 at the Swords to Plowshares Halibut Court apartments on Treasure Island. In 2018, VonBoehrens reportedly committed two aggravated assaults against an adult male and an adult female who lived at the location. When police responded to investigate, they found an uncooperative male (VonBoehrens) who told police he was in the process of vacating one of the apartment units when he was stabbed by another resident whom VonBoehrens claimed chased him with a sword. VonBoehrens told police that the assault ended when he “pepper-sprayed” the assailant. When police investigated further, however and spoke to the alleged assailant and a

¹⁷ Cal. Penal Code section 1170.9.

¹⁸ Court records for San Francisco County Superior Court Case No. 02527362.



percipient witness, they learned that VonBoehrens was actually the aggressor and was seen and heard by the resident manager at the location the same day screaming that he (VonBoehrens) was going to kill somebody. Police spoke to the resident manager who confirmed the statement and told police after VonBoehrens made the threat to kill somebody, he saw VonBoehrens bleeding from the neck.

Witnesses to the 2018 event told police that in the days leading up to that incident, VonBoehrens threatened to take people's souls by inhaling them and was seen talking to himself. The victim of the 2018 incident told police that he was concerned VonBoehrens was dangerous and began to carry a sword for protection. The witness told police he was so afraid of VonBoehrens he had locked himself in his bedroom overnight. The next morning VonBoehrens told the witness he was "going to get [his] soul, kill [him], and kick [his] ass." VonBoehrens then cornered the witness and would not let him leave a common area. The witness had the sword with him, raised the sword, and told VonBoehrens to "stay back" and that he was going to defend himself if necessary. VonBoehrens taunted the witness and then lunged forward leading with his neck towards the sword which caused a laceration on his neck. VonBoehrens advanced towards the witness a second time and the witness again warned VonBoehrens that he would defend himself. VonBoehrens ran away but returned with pepper spray and kicked down the witness door pepper spraying the witness two times. When police later entered the witness' apartment to retrieve the alleged sword as part of their investigation, they reported the odor of the pepper spray in the home was still very strong.

Investigators learned police spoke to a second neighbor and witness at Halibut Court after the March 16, 2022, incident and learned that she had encountered VonBoehrens the night before on March 15, 2022, as she returned from work. Reportedly, VonBoehrens told the woman the following: "You don't know what I am capable of! I have knives and swords!" He then threw a knife that landed on the ground near her. She told investigators she picked up the knife and told VonBoehrens she was going to keep it. This witness produced the knife while she spoke to the police and gave it to them. The witness told police she was not interested in VonBoehrens being arrested for the assault committed against her with the knife but expressed that she wanted him to get help for his mental health as he "[had] been getting worse lately."

Legal and Medical Standards

In every criminal trial, the prosecution must prove the *corpus delicti*, or the body of a crime itself—i.e., the fact of injury, loss, or harm, and the existence of a criminal act or actor as its cause. *People v. Alvarez* (2002) 27 Cal.4th 1161, 1168. This rule requires that a criminal prosecution has enough evidence that a crime has even occurred before an individual may be charged with that crime. This is a threshold determination to any criminal charging decision and requires a prosecutor to establish this basic criterion before looking to any actor as the criminal cause of the unfortunate event. Not all fact of injury, loss, or harm suffered by an individual that occurs is the result of a criminal act or actor and the fact that someone died, does not pre-suppose that the death was caused by wrongdoing. *People v. Rodriguez* (1960) 186 Cal.App.2d 433, 440.

The Role of a Coroner or Medical Examiner

Cal. Government Code section 27491 establishes the duty of the coroner or medical examiner to conduct a medicolegal examination of any individual who dies if the circumstances of that death qualify. Specifically, in instances where there is question as to the cause and/or manner of the



death, the medical examiner is required to conduct an autopsy to determine if the death was natural, the result of suicide, accidental, homicidal, or in some cases: undetermined. Cal. Government Code section 27491(a). Notification to law enforcement will occur if the medical examiner determines the death has been caused by the act of another by criminal means. Cal. Government Code section 27491.1. The National Association of Medical Examiners (NAME) provides for five distinctions between manners of death: “(1) Natural: due solely or nearly totally to disease and/or the aging process; (2) Accident: there is little or no evidence that the injury or poisoning occurred with intent to harm or cause death; in essence, the fatal outcome was unintentional; (3) Suicide-death resulted from an injury or poisoning as a result of an intentional self-inflicted act committed to do self-harm or cause the death of oneself; (4) Homicide-occurs when death resulted from an injury or poisoning from a volitional act committed by another person to cause fear, harm, or death; intent to cause death is a common element but is not required for classification as homicide; and finally, (5) Undetermined-[is] used when the information pointing to one manner of death is no more compelling than one or more other competing manners of death when all available information is considered.”

The Special Relationship that Custody Creates

Giraldo v. California Department of Corrections and Rehabilitation (2008) 168 Cal. App. 4th 231, 250-251, established the concept of the “special relationship” between a jailer/custodial officer and the prisoner because the person in police custody is vulnerable and dependent in the custodial environment, and the duty of the jailer to the prisoner is “protective by nature” because the individual in custody is deprived of normal opportunity to protect themselves from harm. California Government Code section 845.6 further codifies this “special relationship” articulated in *Giraldo* and sets forth the requirement that custodial officers must take reasonable action to summon medical care for anyone in their care because of the individual’s inability to summon their own care. Other examples of a “special relationship” exist with a parent-child or caregiver-dependent. For purposes of determination of the special relationship’s existence, custodial status is used, and the relationship thus begins when an individual is handcuffed by police, or their liberty is restricted in a substantial way. (*Id.*) Also see Cal. Penal Code §845.6.

Criminal Negligence

To be found criminally liable because of negligence, more than evidence of ordinary carelessness, inattention, or mistake in judgment must be present. Ordinary negligence is distinct from either criminal negligence or gross negligence (discussed below). *In re Dennis B.* (1976) 18 Cal.3d 687,696-7. Ordinary negligence occurs when the failure to use reasonable care to prevent reasonably foreseeable harm to oneself or someone else is present. (*Id.*) Failing to act as a reasonably careful person may create the basis for ordinary negligence which conduct may be a crime. This conduct, as an example, may be a failure to leash a dog and it bites someone. A reasonable prudent (*read: careful*) person would keep their dog always leashed to avoid harm to anyone. Ordinary negligence usually is coupled with misdemeanor crimes.

Negligence per se exists when a statute defines conduct and includes that to violate the statutorily identified conduct creates criminal liability because the violation of the law is the negligent act. Defenses to the violation of a per se law are rarely considered and the statutes rarely leave any room for interpretation of the negligent conduct because the negligent conduct is proscribed against. This conduct as an example may be the violation of a leash law requiring a dog owner to leash their dog, if they don’t leash the dog and it bites someone the owner has violated the law (per se) by negligently failing to obey the law.



A person acts with criminal or gross negligence when they act in a reckless way that creates a high risk of death or great bodily injury, and a reasonable person would have known that acting in that way would create such a risk. Criminal negligence does not require a finding of any specific mental state of mind. *People v. Lara* (1996) 44 Cal.App.4th 102; *People v. Penny* (1955) 44 Cal.2d 861, 879-880; *People v. Rodriguez* (1960) 186 Cal.App.2d 433, 440-441; *People v. Alonzo* (1993) 13 Cal.App.4th 535, 540. As the court in *People v. Nicholas* (2017) 8 Cal.App.5th 1165, 1171: “Gross negligence is the exercise of so slight a degree of care as to raise a presumption of conscious indifference to the consequences [of an act]. The state of mind of a person who acts with conscious indifference to the consequences is simply: “I don’t care what happens [when I do-*insert action.*”] An example of gross negligence would be the possession of a dangerous dog that the owner knows will bite people if off leash and the owner allows the animal to be unleashed/let’s go of the leash, and the dog bites and seriously injures someone.

All three types of negligence may create criminal liability of varying degrees.

Involuntary Manslaughter

The crime of involuntary manslaughter requires a finding that the criminal actor acted in a grossly negligent manner and that action or failure to act caused the death of another which was foreseeable. Cal. Penal Code section 192(b). Gross negligence and criminal negligence are synonymous. *People v. Penny* (1955) 44 Cal.2d 861, 877-879, also see *People v. Mehserle* (2012) 206 Cal.App.4th 1125,1141, quoting *People v. Watson* (1981) 30 Cal.3d 290,296.

Therefore, any theory of liability under a criminal negligence (which is gross negligence) theory in the instant matter would require a provable theory that any first responder failed to perform a legal duty owed to the person in custody (the special relationship) or that they deliberately failed to act while knowing that the failure was inherently dangerous to human life, or they were indifferent to those consequences

The Use of Force When Effectuating an Arrest

With respect to the use of force question, any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use *objectively reasonable* force to effect the arrest (seizure, to prevent escape, or to overcome resistance.) (Penal Code § 835a (b)). All seizures (restraints placed that limits the freedom of a person to walk away) by police are judged from the perspective of “reasonableness.” *Tennessee v. Garner* (1985) 475 U.S. 1, 7-8. When the class of crime suspected is that of a felony, the interest of the police to apprehend the felon is of a higher degree, therefore force needed to prevent a person from escaping in that context becomes one of degree. In other words, the question of reasonableness depends not only on when a seizure is made, but also in how that seizure is carried out. *United States v. Ortiz* (1975) 422 U.S. 891, 892; *Terry v. Ohio* (1968) 392 U.S. 1, 28-29.

California law governing police use of force to affect an arrest is wholly consistent with the U.S. Supreme Court’s application of the 4th Amendment limitations on such police conduct. In its decision in *Graham v. Connor* (1989) 490 U.S. 386, the Court held that “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.” (*Graham, supra*, at p. 396) And the reasonableness of that use of force “must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” (*Id.*)

Case law in California has addressed the issue of reasonable force by police when police use force in numbers. In finding that the question of whether officers used excessive force in arresting a



suspect was a question of fact not requiring expert testimony, the court in *People v. Brown* (2016) 245 Cal. App. 4th 140, observed that it is not “a matter of specialized knowledge that two officers are more effective than one; that a second officer may come to the aid of another officer who is having trouble subduing a suspect; or that, to gain control over a resisting suspect, law enforcement officers are permitted to use their hands, fists, knees, feet or other body parts.” (*Brown, supra*, at p.160.)

Hyperactive Delirium with Severe Agitation (HDSA)

California has banned the use of the term “excited delirium” by way of executive order in October 2023. The terminology is without medical validity or diagnostic evidence and may no longer be used in California where acute drug use and physical struggle or restraint of an individual co-occur, and death also occurs.¹⁹ First responders are no longer able to apply the terminology and are limited to providing descriptions of behaviors witnessed but without any diagnosis or diagnostic criteria. Physicians, medical assistants, and medical examiners are also prohibited from attributing a death to “excited delirium.” However, hyperactive delirium with severe agitation, as explained by Dr. Jorden, does have medical validity and is a phenomenon that has in many instances an adverse outcome for the patient experiencing the condition.

Delirium as characterized as a “common and serious problem among acutely unwell persons...[and is] linked to high rates of mortality[.]”²⁰ The DSM 5 TR criterion for a delirium diagnosis has three criterion but principally defines the condition as “[a] disturbance in attention (i.e., reduced ability to direct focus, sustain, and shift attention) accompanied by reduced awareness the environment.” There are three delirium subtypes: (1) hyperactive, (2) hypoactive, and (3) mixed. Yet, some literature discusses that delirium alone cannot be a cause of death because, by definition, delirium requires an identifiable underlying organic cause that can be ascertained from the clinical presentation, diagnostic studies, or, in the case of death, by autopsy.²¹

In their 2020 quantitative analysis on “excited delirium,” In a 2020 study, Ellen M.F. Strommer et al. discussed the overlap between restraint asphyxia and “excited delirium,” in that the characteristics used to describe “excited delirium” are likely to trigger the use of force and restraint, and that risk factors for “excited delirium” overlap with the risk factors for restraint-related asphyxia.²² This recent review further reinforces that “excited delirium” does not by itself cause death in unrestrained people. Strommer, et al. conducted an extensive review of the literature and converted all relevant “excited delirium” or “agitated delirium” case reports and characteristics in the literature into a numerical dataset for quantitative analysis. Researchers found that some form of restraint was described in 90 percent of all deaths in what was previously labeled “excited delirium.” Restraint increased the odds of an “excited delirium” diagnosis by between 7 and 29 times. (*Ibid.*)

¹⁹ [Bill Text - AB-360 Excited delirium.](#)

²⁰ European Delirium Association; American Delirium Society. The DSM-5 criteria, level of arousal and delirium diagnosis: inclusiveness is safer. BMC Med. 2014 Oct 8;12:141. doi: 10.1186/s12916-014-0141-2. PMID: 25300023; PMCID: PMC4177077.

²¹ Maurice Lipsedge, “Excited delirium: A psychiatric review,” *Medicine, Science and the Law* vol. 56, no. 2, (Apr. 2016), <https://doi.org/10.1177/0025802415579617>; James Gill, “The syndrome of excited delirium,” *Forensic Science, Medicine and Pathology* vol. 10, no. 2, (Feb. 2014), <https://doi.org/10.1007/s12024-014-9530-2>; American Psychiatric Association *Diagnostic and Statistical Manual of Mental Disorders, 5th ed.* (Washington D.C.: APA Press, 2013).

²² Ellen Strommer et al., “The role of restraint in fatal excited delirium,” 2020; https://pmc.ncbi.nlm.nih.gov/articles/PMC7669776/pdf/12024_2020_Article_291.pdf



Thus, a central part of this debate has been whether restraint positions such as prone restraint can physiologically cause positional asphyxia and death. Some case reports have shown that prone restraint was used during sudden and unexpected in-custody deaths.²³ Studies have attempted reenactment of prone and prone restraint positions, including compression, with no clear pattern of results.²⁴ Studies performed demonstrated measurable non-life threatening hemodynamic and/or respiratory changes detectable in healthy, non-intoxicated volunteers in a controlled and mild setting who were placed in a prone or prone restraint position. But none of the study participants were intoxicated, fearful, or agitated, within or outside the context of mental illness, and none were being forcibly restrained. Therefore, none of the studies replicated an accurate police encounter with someone who is under the influence of an intoxicant and supposedly in “delirium” who may be struggling and agitated due to restraints, as opposed to lying at rest. (Ibid.)

Therefore, it is not known conclusively whether the use of prone restraint in conditions such as the forcible restraint of an agitated, intoxicated person could cause significantly worse hemodynamic or respiratory harm than what was found in these studies. (Ibid.)

Professional Organizations

The American Medical Association (AMA) and the American Psychiatric Association (APA) do not recognize “excited delirium” as a valid diagnosis. The AMA elaborated that the term “excited delirium” has been used to justify inappropriate and discriminatory actions by law enforcement. The APA has advocated for the U.S. Department of Health and Human Services to conduct a nationwide investigation of all cases labeled “excited delirium.” Both associations have advocated for cessation of the use of the term “excited delirium” unless a clear set of diagnostic criteria can be established, rigorous studies undertaken, and data made available.

The American College of Emergency Physicians (ACEP), meanwhile, has yet to fully revise its position that “excited delirium” is a distinct type of delirium. In June 2021, ACEP released a new task force report on “Hyperactive Delirium with Severe Agitation in Emergency Settings” without rescinding their previous 2009 white paper on the subject.²⁵ The 2021 report emphasized the

²³ Charles V. Wetli and David A. Fishbain. 1985. “Cocaine-Induced Psychosis and Sudden Death,” 1985; D. T. Reay et al., “Positional asphyxia during law enforcement transport,” *American Journal of Forensic Medicine and Pathology* vol. 13, (Jun. 1992): 90-97, <https://doi.org/10.1097/00000433-199206000-00002>; Alain Michaud, “Restraint related deaths and excited delirium syndrome in Ontario (2004-2011),” *Journal of Forensic and Legal Medicine* vol. 41, (Jul. 2016): 30-35, <https://doi.org/10.1016/j.jflm.2016.04.010>; M. S. Pollanen et al., “Unexpected death related to restraint for excited delirium: a retrospective study of deaths in police custody and in the community,” *Canadian Medical Association Journal* vol. 158, (Jun. 1998): 1603-1607, <https://pubmed.ncbi.nlm.nih.gov/9645173/>; Patrick Joseph Maher, “Prehospital resuscitation of a man with excited delirium and cardiopulmonary arrest,” *Canadian Journal of Emergency Medicine* vol. 16, (Jan. 2014): 80-83, <https://doi.org/10.2310/8000.2013.130824>; Jami R. Grant et al., “Excited delirium deaths in custody: past and present,” *American Journal of Forensic Medicine and Pathology* vol. 30, (Mar. 2009): 1-5, <https://doi.org/10.1097/PAF.0b013e31818738a0>; S. J. Stratton, C. Rogers, K. Green, “Sudden death in individuals in hobble restraints during paramedic transportation,” *Annals of Emergency Medicine* vol. 25, (1995): 710-712.

²⁴ https://phr.org/our-work/resources/excited-delirium/#_ednref165

²⁵ <https://www.acepnow.com/article/acep-rejects-excited-delirium/>



necessity to “differentiate and treat life-threatening causes of hyperactive delirium,” outlined multiple potential underlying causes, and called for additional research to “more fully understand inciting pathways and distinct pathophysiology of individual causes of hyperactive delirium with severe agitation.”²⁶

Methamphetamine and Alcohol's effects when combined, on the body

Ethanol (referred to as “alcohol” hereafter) and other illicit drugs-of-abuse (referred to as “drug(s)” hereafter) such as cocaine, methamphetamine (meth), nicotine, opioids, cannabis, and γ -hydroxybutyric acid (GHBA) continue to be a major public health concern globally.²⁷ Over the past several years, there has been an increasing tendency to combine narcotics, alcohol, sedatives, and/or stimulants. (Ibid.) Alcohol is more commonly abused with psychostimulants such as methamphetamine, cocaine, or nicotine. The adverse effects of mixing alcohol with other drugs can be dramatically severe and may hinder decision making, thinking, and neurocognitive abilities. (Ibid.) Studies show that alcohol when combined with methamphetamine amplifies the effects of methamphetamine which short term physiological effects include with usage: a rapid and irregular heartbeat, elevated blood pressure, and increased rate of breathing.²⁸ Overdose of methamphetamine alone (not combined with other substances) can lead to devastating cardiovascular events such as stroke or heart attack as well as other organ damage. (Ibid.)

Other signs of overuse of methamphetamine are confusion, psychosis, seizures, rapid increase in heart rate, blood pressure, body temperature, chest pain, circulatory collapse, and death. Combining methamphetamine with alcohol is incredibly dangerous and intensifies all of the above.²⁹ When a person mixes methamphetamine and alcohol, co-intoxication can alter both the time course and severity of intoxication and acute effects of both substances in unexpected ways. The depressant effects of alcohol are masked by the effects of the stimulant, increasing the risk of overdose from alcohol. Blood pressure may also increase. Combining methamphetamine with alcohol can increase the risk cardiovascular problems such as heart failure. Kidney issues including kidney failure may also result from an increased risk of dehydration and hyperthermia. Long term methamphetamine use can cause cumulative brain changes resulting in confusion, memory loss, impaired verbal learning, reduced coordination, insomnia, mood changes, violent behavior, chronic anxiety, paranoia, hallucinations, extreme weight loss, severe heart problems (chronic systemic and pulmonary hypertension, cardiomyopathy, increased chance of aortic dissection, and myocardial infarction), skin abscesses, damaged blood vessels, dental problems such as tooth loss and gum disease.³⁰

Prosecutor's Burden of Proof

A prosecutor bears the burden of proving a criminal defendant's guilt beyond a reasonable doubt. (Pen. Code, § 1096.) Where an investigation is complete and all the evidence is available for

²⁶ American College of Emergency Physicians (ACEP) Hyperactive Delirium Task Force, “ACEP Task Force Report on Hyperactive Delirium with Severe Agitation in Emergency Settings,” Jun. 23, 2021, <https://www.acep.org/globalassets/new-pdfs/education/acep-task-force-report-on-hyperactive-delirium-final.pdf>.

²⁷ <https://pmc.ncbi.nlm.nih.gov/articles/PMC6466217/>

²⁸ [Meth Addiction: Signs, Symptoms & Treatment Options](#)

²⁹ Singh, A. K. (2019). *Alcohol interaction with cocaine, methamphetamine, opioids, nicotine, cannabis, and γ -hydroxybutyric acid*. *Biomedicines*, 7(1), 16. Rodriguez, E. A., & Yamamoto, B. K. (2021). *Toxic effects of methamphetamine on perivascular health: Co-morbid effects of stress and alcohol use disorders*, *Current Neuropharmacology*, 19(12), 2092 – 2107.

³⁰ <https://alcohol.org/mixing-with/crystal-meth/>



review, prosecutors should file charges only if they believe there is sufficient admissible evidence to prove the charges beyond a reasonable doubt at trial. (See, e.g., Nat. Dist. Attys. Assn., National Prosecution Standards (3d ed. 2009) Part IV, § 2 pp. 52-53; United States Department of Justice Manual § 9-27.220; Melilli, Prosecutorial Discretion in an Adversary System (1992) B.Y.U. L. Rev. 669, 684-685 [surveying ethical standards used in the exercise of charging discretion by prosecutors]; accord, *People v. Catlin* (2001) 26 Cal.4th 81, 109 [“A prosecutor abides by elementary standards of fair play and decency by refusing to seek indictments until he or she is completely satisfied the defendant should be prosecuted and the office of the prosecutor will be able to promptly establish guilt beyond a reasonable doubt,” quotation and internal quotation marks omitted]; *People v. Spicer* (2015) 235 Cal.App.4th 1359, 1374 [explaining that a prosecutor may have probable cause to charge a crime but reasonably decline to do so if they believe there is a lack of sufficient evidence to prove the charge beyond a reasonable doubt at trial]; cf. Rules Prof. Conduct, Rule 3.8(a) [prosecutor should not initiate or continue prosecution of charge that is not supported by probable cause].)

Legal Analysis

The question posed by this event is whether SFPD Officers Tov and/or Gabriel were grossly negligent in their actions to subdue and arrest VonBoehrens and if those grossly negligent actions may be used to prove the two police officers committed the crime of involuntary manslaughter. For many reasons outlined throughout this report and summarized here, the appropriate response is in the negative.

When SFPD arrived on scene, several civilian witnesses directed the police to VonBoehrens. Tov and Gabriel looked in the direction the witnesses pointed and immediately saw VonBoehrens: deranged, disheveled and extremely wet (diaphoretic), and confused, vandalizing the window of the leasing office with a large cement rock he threw through the window. This crime, committed in the officers’ presence and within seconds of their arrival, was captured by body worn camera footage as were the dramatic initial moments when Tov and Gabriel arrived and yelled for VonBoehrens to stop climbing through the broken window. Numerous civilian witnesses reported what they saw corroborating each other’s accounts as well as the accounts of the first responders. In those first chaotic seconds after arrival, Tov and Gabriel also learned that VonBoehrens had assaulted someone.

Having watched VonBoehrens commit a crime, Tov and Gabriel properly commanded VonBoehrens to stop and to submit to them. VonBoehrens turned towards the officers but from the video footage it was clear that VonBoehrens was desperately impaired. This impairment was evident as VonBoehrens’ speech was non-sensical and incoherent. His body movements appeared uncoordinated and non-purposeful. His appearance was notable for how wet or damp he appears, and it was unclear if he appreciated that the two men confronting him were police officers. The only information the first responders may have received at this early stage about VonBoehrens medical condition was from a nearby resident who appeared on camera and told the police that VonBoehrens used drugs and today got “too high.”

Both Tov and Gabriel grabbed VonBoehrens as he tried to escape by jumping through a window that was lined with sharp shards of glass. VonBoehrens, in response initially allowed the officers to pull him from the window but then became physically agitated and tried to get away from the police. As Tov and Gabriel struggled to get VonBoehrens under control and place him in handcuffs for everyone’s safety, firefighters came to help as did a civilian who tried to hold VonBoehrens in one place.



By all accounts, VonBoehrens presentation was combative, angry, violent, non-communicative/non-responsive, unpredictable, bizarre and potentially dangerous to himself and others. With the assistance of multiple firefighters and the one civilian Tov and Gabriel were finally able to handcuff VonBoehrens. It is not unreasonable to surmise that given VonBoehrens' height, weight, and level of resistance the police and fire fighters joined efforts to hold him in place as opposed to placing the full weight of any one person completely on VonBoehrens. Argument could be made that the use of multiple people to hold VonBoehrens mostly by his extremities was so as to avoid placing too much weight on him, which could hinder breathing, at one time while the police handcuffs were placed on him.

The degree of force used by the police and firefighters that enabled the application of handcuffs appeared from the footage and witness statements objectively reasonable based on the totality of circumstances discussed below.

Tov and Gabriel's subjective intentions involved dual goals: to prevent VonBoehrens from harming himself or others, and to get him under control (arrest). From the review of all relevant body worn camera footage, the degree of force appeared proportional and responsive to VonBoehrens' physical resistance to accomplish the goals of preventing harm and arrest. No weapons were used by any officer, no punches or knee strikes, or use of a baton or pepper spray was employed. Tov and Gabriel used their bodies only and focused on holding VonBoehrens (arms and legs) while verbally reminding everyone to place VonBoehrens on his side. A firefighter appeared to briefly have a knee towards the upper portion of VonBoehrens' back, but then VonBoehrens was rolled to his side. Throughout the efforts to place VonBoehrens on the spine board and apply the soft restraints, VonBoehrens was moving, screaming, crying, and shouting. During these initial efforts, VonBoehrens can be heard saying he "can't breathe" as he screamed and protested the detention, interspersed with nonsensical statements. Officers, paramedics, and firefighters all checked periodically to see if VonBoehrens was breathing and repositioned him when possible. From the reviewed video, VonBoehrens was on the ground after being handcuffed and laid mostly on his side.

The use of force during the above was also proportional to the task of keeping VonBoehrens from hurting himself or anyone around him. If no force was used to get VonBoehrens under control, VonBoehrens would likely have continued to be a danger to himself or others. Police are not allowed to ignore danger. Officers and first responders therefore applied forceful restraint of VonBoehrens mostly to his legs and arms. Video captured VonBoehrens, who stood at 5'11" and weighed 204 pounds, as he bucked, moved, or struggled to rise which created a need for multiple people to apply weight and force to prevent these actions. Multiple witnesses corroborated the struggle and stated that none of the officers or firefighters were ever on the neck or back area of VonBoehrens, which was also corroborated by BWC video footage. Once restrained, VonBoehrens continued to struggle, spit at officers and firefighters, and screamed for several minutes before he appeared to lose consciousness, and the medical emergency was declared and efforts changed to save VonBoehrens' life.

Because the events unfolded as they did, time and circumstances prevented the officers or first responders from learning the quality of VonBoehrens's physical health. Physicians familiar with the state of hyperactive delirium indicate in the many publications consulted for this report that this inability to fully appreciate the medical emergency is an unfortunate reality of this condition when it manifests outside-the-hospital setting. Add to this lack of knowledge without fault of the first responders; police were not given time or opportunity to learn the quantity of



methamphetamine and vodka VonBoehrens had ingested and over what length of time the ingestion took place. Finally, the first responders did not know the extent of the intense physical struggle that occurred between V-1 and VonBoehrens before firefighters arrived or about any medical pre-existing conditions or vulnerabilities VonBoehrens had.

But the facts known post-autopsy were that VonBoehrens had significant amounts of alcohol and methamphetamine in his system which in combination and concentration created the delirium, hyperactivity, and extremely agitated state, which when combined with intense exertion and extreme dehydration, put his cardio-pulmonary system at grave risk. Dr. Jorden and Dr. Moffat both opined that the “toxic effects” of the volatile substances VonBoehrens ingested caused his behavior. It stands to reason that the methamphetamine, alcohol used, which was followed by the extreme exertion (VonBoehrens was described as running around “like a madman”) after the exertion of a physical fight with V-1, who showed police significant damage to V-1’s home and belongings) VonBoehrens engaged in, would be direct and significant contributors to his death. And while it must be conceded that the restraint efforts and actual restraint might not have improved VonBoehrens’ chances for survival, the same event cannot be the singular or even the dominant cause of VonBoehrens’ death.

From all evidentiary sources available, officers and first responders appeared diligent in their efforts to care for VonBoehrens. And once the medical emergency was made known, these same first responders initiated medical treatment to try and save VonBoehrens’ life. Based on witness statements, video footage from the event, neither officers nor firefighters appeared to have been negligent in their use of force to subdue, or actions to control and then care for VonBoehrens. All evidence reviewed reveals police and firefighters appropriately responding to the rapidly evolving circumstances as they unfolded with the little information they had.

Consequently, because of the above, there is insufficient evidence to support a finding that any SFPD or SFFD personnel or any individual under the supervision of either agency acted with any type of negligence or failed to perform the legal duty owed to VonBoehrens. Further no evidence of criminal misconduct is presented or suggested in any of the supporting reports, evidence reviewed, or documentation created in the wake of the tragic death of VonBoehrens.

Conclusion

For the reasons discussed above, we conclude that criminal charges against the officers and/or first responders (firefighters and other SFFD personnel) involved in this incident are not warranted. Neither Officer Tov nor Officer Gabriel’s conduct was the proximate cause of VonBoehrens’ death.

VonBoehrens introduced to his physical being an amount and mixture of drugs and alcohol that ultimately proved likely the primary cause of his death. The presence of methamphetamine, a dangerous and highly addictive stimulant, and alcohol combined with the level of exertion and physicality VonBoehrens engaged in prior to the firefighter then police arrival, exacerbated his condition as is evidenced by the cardiac arrest he suffered. This analysis is supported by not one but two specially trained pathologists who both found and agreed that the death of VonBoehrens based on their examination, was to be attributed to the presence of the drugs and alcohol in his system combined with extreme physical exertion, some of which occurred when the officers tried to subdue and control VonBoehrens.



Dr. Jorden recognized the symptoms of hyperactive delirium with severe agitation, a condition recognized by the medical community, as a potentially dangerous one. But pathologists were not present at the scene on March 16, 2022, to provide this diagnosis available to them only because of the results of an autopsy. And the first responders who acted within their training and ability did what they could to try to protect themselves, others, and also VonBoehrens from himself.

In addition, the District Attorney cannot prove beyond a reasonable doubt that the officers' or first responders' conduct in restraining VonBoehrens was undertaken "in a reckless way that created a high risk of death or great bodily injury," as all evidence of the event retrieved and reviewed showed what appeared to be conscientious care in positioning of VonBoehrens followed by circumstance-appropriate responses to the events as they changed from moment to moment.

This investigation uncovered no evidence of any foul play, or criminally negligent failure by police officers or firefighters on scene. For these reasons, no criminal charges are warranted, and no further action will be taken in this matter by the San Francisco District Attorney's Office at this time. Therefore, the District Attorney declines to file any criminal charges in this matter.