



Diana Becton
District Attorney

Report of the Law Enforcement Involved Fatal Incident/Officer Involved In-Custody Death of
Steven HANKINS on February 8th, 2019

Table of Contents

Privacy Statement.....3

Executive Summary.....4

Introduction.....7

Investigation.....9

 Overview.....9

 Evidence Reviewed.....10

 Scene Description.....11

 Steven Hankins – Prior incidents.....11

 Factual Summary.....12

 Body-Worn Camera Footage.....19

 Interviews of Involved Police Officers.....16

 Interviews of Fire Department Personnel.....23

 Interviews of Civilian Victims and Witnesses.....24

 Social Services Interview.....30

 Autopsy.....32

Findings.....33

Legal Analysis.....38

Privacy Statement

This report includes redactions of the names and other identifying information of witnesses and Mr. HANKINS' family members. Specific addresses are also not provided in this report, beyond that of the homeless shelter. 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, the witnesses will be indexed as follows:

- Witness (W-1) through (W-9) refers to residents of the homeless shelter
- Witness (W-10) through (W-15) refers to employees of the homeless shelter
- Witness (W-16) through (W-18) refers to relatives of HANKINS

The numbering sequence is not indicative of the order these witnesses made contact with Mr. HANKINS, nor does it indicate any ranking or importance of one person over the others.

EXECUTIVE SUMMARY

On February 8th, 2019, at approximately 4:10 pm¹, the Concord Police Department (CPD) Dispatch Center received a 9-1-1 call regarding a person, identified as Mr. Steven HANKINS, at the Contra Costa County Adult Homeless Shelter located at 2047 Arnold Industrial Way, Concord, CA. The caller (W-11), an employee of the shelter, informed the dispatcher that HANKINS was “punching the air and yelling.” Seven minutes later, (W-11) called CPD again, informing them HANKINS was, “...being violent and aggressive.” Four minutes later, (W-11) called CPD again, informing them HANKINS was, “... getting worse.” Three and half minutes later, (W-11) called CPD for the last time, informing them HANKINS was, “... yelling and punching things.”

At the time of the incident, HANKINS was a resident of the shelter, along with approximately three dozen other adults. HANKINS was a new arrival to the shelter, having been recently released from prison. Shelter staff had been dealing with HANKINS’ changing mood and disruptive behavior for several hours preceding HANKINS’ contact with CPD officers related to this incident.

According to HANKINS’ relatives, HANKINS had a history of drug abuse. One of HANKINS’ relatives (W-17) was afraid of HANKINS to such a degree that the relative had moved in with another relative to, “get away from [HANKINS].”

Numerous shelter residents and employees commented on HANKINS’ changing behavior in the hours leading up to his contact with CPD; most indicated HANKINS had likely ingested some type of drug². A resident, (W-2), described HANKINS’ demeanor in the hours before the incident as, “the lights were on, but nobody was home.” HANKINS was observed by (W-12) going through the personal property of other shelter residents and, “acting aggressively.” HANKINS was described by (W-13) as “fighting demons that weren’t there.” HANKINS also tried pulling apart some of the metal lockers and bed frames. Another shelter resident, (W-8), found a syringe in the restroom shortly after HANKINS and another resident were seen exiting the restroom.

Two officers from CPD, Officer David Savage and Officer Raul Alvarado, arrived at the shelter and were directed by shelter staff to the men’s restroom. The officers contacted HANKINS inside the restroom and found HANKINS pacing and talking unintelligibly to himself. The officers tried to talk with HANKINS, to gain his cooperation and get him medical assistance, however, HANKINS did not speak with the officers. Instead, HANKINS tried to push past the officers, resulting in a physical struggle in the men’s restroom. The two CPD officers and HANKINS remained standing, with the officers holding onto HANKINS’ arms while all three leaned against

¹ All times listed in this report are approximations.

² The shelter staff and residents had speculated HANKINS may have ingested “PCP,” “bad meth,” or “bath salts.”

the countertop. *(The entire police response by CPD was captured on their body-worn cameras (BWC), including one BWC knocked to the floor during the struggle).*

Once additional officers arrived, Ofc. Savage, Ofc. Alvarado, Lieutenant Sam Staten, and Deputy Casey Shields from the Contra Costa County Sheriff's Office (CCCSO) grabbed onto HANKINS' arms and legs; they lifted HANKINS away from the counter and placed him face-down on the ground. A shelter staff member (W-13) described the physical altercation, stating, "If that was my kid that's how I'd want my kid to be treated, in essence, if he was in that situation," and that the officers had been, "gentle." The officers requested a "WRAP" restraint device³ while they continued to hold HANKINS on the floor. HANKINS had been handcuffed with "double cuffs" applied⁴ behind his back. *(No chemical agents, other police devices (Taser or batons) nor physical strikes were used on HANKINS during this police encounter.)*

While other officers were applying the WRAP to HANKINS' legs, Ofc. David Greenfield, who had arrived just as HANKINS was taken to the ground, continued to talk with HANKINS as well as felt for a pulse on HANKINS' neck. Ofc. Greenfield positioned himself near HANKINS' head, placing his elevated knee over HANKINS' upper back.

Within 1 minutes and 31 seconds of placing HANKINS on the ground, and then securing HANKINS' hands in cuffs, Ofc. Greenfield instructed the officers to turn HANKINS' onto his side. Ofc. Greenfield attempted a "sternum rub"⁵ to determine if HANKINS was responsive. HANKINS was not responsive and Ofc. Greenfield began chest compressions while the other officers removed the WRAP and a handcuff from HANKINS' wrist. About 1 minute and 14 seconds after HANKINS was rolled onto his back, the officers applied an Automated External Defibrillator (AED) to HANKINS' chest and activated the AED.

Medical personnel from American Medical Response (AMR) and Contra Costa County Fire Department (Con Fire) arrived and took over lifesaving efforts on HANKINS. AMR and Con Fire attempted to revive HANKINS; however, he did not recover and was pronounced deceased by AMR Medic Richardson. HANKINS remains were later transferred to the Contra Costa County Coroner's Office.

³ The "WRAP" is a nylon and fabric device that is wrapped around the legs of a combative person, eliminating that person's ability to kick or run.

⁴ "Double cuffs" is the process of connecting two separate handcuffs into a continuous chain, effectively creating a set of handcuffs that are twice as long. The restrained person's hands are locked into the widest portion of the connected cuffs, thereby easing the pressure created when the person's hands are secured behind their back.

⁵ A "sternum rub" is commonly used by medical staff, on patients, where they rub the knuckles of a closed fist on the center of the patient's chest; the stimulus causes a reaction in the patient.

The Contra Costa County Law Enforcement Involved Fatal Incident (LEIFI⁶) was invoked by CPD and an investigative team from the Contra Costa County District Attorney's Office⁷ (CCDAO), CPD and CCCSO was formed. The LEIFI team took over the investigation, processed the scene of the incident (utilizing the Contra Costa Sheriff's Crime Lab⁸), and interviewed the shelter residents, shelter staff, fire and medical personal, and the involved law enforcement officers.

On February 11th, 2019, Dr. Ogan performed the autopsy on HANKINS; this included sending biological samples of HANKINS' tissues to NMS laboratory for examination. Dr. Ogan, in his final report, concluded that HANKINS had, "no evidence of neck compression or breathing restraint." Instead, Dr. Ogan reported that HANKINS had, "[a] high level of methamphetamine and amphetamine [in his blood toxicology.]" Dr. Ogan opined that HANKINS' cause of death was, "probable cardiac dysrhythmia," "due to acute methamphetamine toxicity."

The subsequent report from NMS Labs indicated that HANKINS' blood contained, "120 ng/mL" of amphetamine. NMS stated, "Following a single 30 mg dose to adults, an average peak plasma level of 100 ng/mL was reported at 2.5 [hours]." HANKINS' blood level of amphetamine was higher than the study results.

The CCCSO Coroner's Inquest was held on November 11th, 2019. During testimony at the Inquest, Dr. Ogan made the following significant findings:

- "There were no injuries to the neck area to indicate any kind of compression or outward pressure."
- "... there was nothing too major in the face that would occlude his respiration."
- 'There was no indication of any injury caused by excessive weight being placed on [HANKINS]'
- 'There were no petechiae, so there was no evidence whatsoever of [HANKINS] respiration having been compromised during the restraint.'
- "[HANKINS] had the hallmarks of heavy alcohol use... [HANKINS] had an enlarged heart."
- '[HANKINS] had 6,800 nanograms per ml of... methamphetamines... in his blood... the average high level is about... 600 nanograms per ml.' 'A lethal range of this drug is somewhere between 200 and 600, but [HANKINS] was ten times higher.'

The jury returned a unanimous verdict of, "death caused by accident."

⁶ The LEIFI, also referred to as the "Protocol" process, was established in 1982 by the law enforcement agencies in Contra Costa County. The current, 2014 version, can be found at <https://www.contracosta.ca.gov/DocumentCenter/View/66954/Protocol-Manual-Law-Enforcement-Involved-Fatal-Incidents-PDF?bidId=>

⁷ Composed of a Deputy District Attorney and eight Senior Inspectors

⁸ In accordance with the LEIFI process, the Contra Costa County Sheriff's Crime Lab is the agency designated to conduct crime scene processing and evidence collection at all LEIFI incidents.

INTRODUCTION

This report is the Contra Costa County District Attorney's Office (CCDAO) investigation of the Concord Police Department's (CPD) fatal officer-involved contact with Mr. Steven HANKINS on February 8th, 2019, In Concord, California.

The CCDAO and every law enforcement agency in Contra Costa County have adopted the Law Enforcement Involved Fatal Incidents Protocol (LEIFI or Protocol)⁹ to investigate incidents when officers or civilians are shot, killed, or die during an encounter with law enforcement.

Under the Protocol, the CCDAO investigates all officer involved fatal incidents in Contra Costa County for the purpose of making an independent determination of criminal liability. The sole purpose of the District Attorney investigation is to determine if there is proof beyond a reasonable doubt that a law enforcement official committed a crime in connection with the fatality.

Pursuant to the Protocol, immediately after a fatal officer-involved incident the involved law enforcement agency is required to notify the appropriate district attorney personnel. Once notified, trained and experienced members of the CCDAO respond to the scene to begin the criminal investigation. In addition, criminal investigators from the law enforcement agency(ies) involved in the incident and from the jurisdiction where the incident occurred, if different, respond to the scene as well. It is important to note that although the investigations happen simultaneously, each agency is conducting its own independent investigation.

As part of the criminal investigation, law enforcement officers and civilians who witnessed the incident may be interviewed, evidence is collected at the scene and may be submitted to the county crime lab for testing and analysis, in addition to any other relevant investigative work necessary to complete the investigation. The Contra Costa County Sheriff's Office Crime Lab responds to every incident and is responsible for evidence collection of all officer-involved shootings.

During the course of the criminal investigation, an officer or deputy has the right to be represented by an attorney. They may voluntarily choose to provide a statement, physical evidence, or other relevant information during the criminal and administrative investigations. Under the law, neither an officer nor civilian can be compelled to give a statement as part of a criminal investigation. However, an officer may be compelled to provide a statement during the law enforcement agency administrative investigation only. (See, Public Safety Officers Procedural Bill of Rights Act, Government Code sections 3300 et seq.) In accordance with the law, the CCDAO does not participate in compelled administrative investigation interviews and

⁹ Contra Costa County was one of the first counties in the country to adopt a fatal incident protocol between the District Attorney and the law enforcement agencies within the county. The complete LEIFI Protocol document can be located on the Contra Costa County District Attorney's Office website.

does not review them as part of the independent criminal investigation. There are very narrow circumstances where an exception to this rule is allowed.

Independent of the CCCDAO and in accordance with the Protocol, the Coroner's Division in the Contra Costa County Sheriff's Office (CCCSO) conducts a Coroner's Inquest following most deaths that involve law enforcement personnel or law enforcement operations or activities within Contra Costa County.

The Inquests are open to the public, are conducted by a private attorney hired by the Coroner's Division and are held in front of a jury of citizens randomly selected from the Contra Costa County Superior Court jury pool. During the Inquest, the hearing officer questions witnesses, and additional evidence may be presented. The role of the jury is to decide whether the death was by (1) natural causes, (2) suicide, (3) accident, or (4) at the hands of another person other than by accident (i.e., homicide). The jury's decision has no legal bearing on the civil or criminal investigations or liability of any person(s) involved in the incident.

*Note – This report contains sensitive information and descriptions of an officer involved incident that resulted in the death of a person.

INVESTIGATION

Overview

On February 8th, 2019, around 5:30 pm¹⁰, the Contra Costa County District Attorney's Office received a call from Concord Police Department regarding an officer involved fatal incident that had occurred in the City of Concord. DDA Grove then called CCCDAO Chief of Inspectors Paul Mulligan, to discuss the incident, as well as other logistical issues related to this investigation. The decision was made that DDA Barry Grove and eight¹¹ District Attorney Senior Inspectors would respond to the incident. This investigative team from the CCCDAO would conduct the criminal investigation on behalf of the District Attorney's Office.

Some members of the CCCDAO investigative team responded directly to the Concord Shelter, located at 2047 Arnold Industrial Way in the City of Concord. The security of the crime scene was maintained by uninvolved CPD officers¹² to preserve evidence and collect initial witness statements from residents, visitors, and employees of the shelter.

Once CCCDAO investigators had conducted a brief review of the incident scene, the entire investigative team, including investigators from the Concord Police Department (CPD) and Contra Costa County Sheriff's Office (CCCSO) conducted a full briefing at the CPD headquarters. The briefing was held to assign roles and responsibilities as well as create teams of investigators¹³ with representatives from the CCCDAO, and the two involved agencies, CPD and CCCSO. The CCCDAO investigative assignments were as follows:

- Senior Inspector John Garcia – interview the fire and medical personnel
- Senior Inspector Don Hendershot – interview CPD officers who made direct contact with HANKINS
- Senior Inspector Mike McLaughlin – interview responding but not directly involved CPD officers and shelter residents
- Senior Inspector Rick Rivera – notify and interview family and relatives of HANKINS
- Senior Inspector Aaron Ross – interview shelter employees
- Senior Inspector Ed Sousa – interview CPD officers and CCCSO deputies who made direct contact with HANKINS

Consistent with the Protocol, each senior inspector was accompanied by a CPD detective, (and in numerous interviews a CCCSO detective) when performing the assigned investigative tasks. As the investigation progressed, assigned senior inspectors reported the results of their activity

¹⁰ Non-critical times listed in this report are approximations. Body-worn camera (BWC) video times will be listed with precision. The BWC records "Zulu" time, coincidental with UTC and GMT, but will be reported in local time.

¹¹ Not all eight were tasked with interviews or other responsibilities, a sub-set was involved in subsequent interviews and those investigators are mentioned further within this report.

¹² "Uninvolved officers" refers to officers that had not originally responded to the incident, nor had direct contact with HANKINS.

¹³ This process is defined in the LEIFI manual and is common practice; it establishes an investigative team with transparency by including several agencies within the team assigned to conduct the most significant interviews.

to DDA Grove and the leadership team. Every CPD officer and CCCSO deputy directly involved in the incident was sequestered¹⁴ following the incident. Each officer¹⁵ was interviewed separately and accompanied by a legal representative during questioning by CCCDAO, CPD, and CCCSO personnel.

Prior to interviewing the officers who were involved with HANKINS, DDA Grove, Senior Inspector Hendershot, Senior Inspector Sousa, and other CPD and CCCSO detectives reviewed the body-worn camera (BWC) footage of this incident. The involved officers did not view the footage from their body-worn cameras prior to being interviewed, and the involved CCCSO deputies did not have BWC.

Once the scene was processed and all the interviews were completed, the next steps in the investigation were to await the formal autopsy results, the completion of the crime lab testing, and the Coroner's Inquest hearing.

Overall, the CCCDAO investigation of the death of Mr. Steven HANKINS was comprehensive, thorough, objective, and independent. In all, ten (10) police officers/deputies, six (6) firefighters/emergency medical personnel, three (3) family/relatives of HANKINS, and sixteen (16) civilian witnesses were interviewed; along with one crime scene being processed for evidence (2047 Arnold Industrial Way, Concord). This report represents hundreds of hours of investigation conducted by the CCCDAO, CPD, CCCSO and the CCCSO Crime Lab.

Evidence Reviewed

The CCCDAO obtained and reviewed the following evidence and information regarding this incident:

- The crime scene located at 2047 Arnold Industrial Way, Concord, CA
- 9-1-1 calls to CPD Dispatch
- CPD Dispatch and officer radio communications
- California Department of Justice criminal history information for HANKINS
- California Department of Corrections inmate information for HANKINS
- Prior police and sheriff's reports involving HANKINS
- Body-worn camera footage for twenty-two (22) cameras depicting the incident
- Interviews of the responding officers and deputies
- Interviews of the shelter staff/employees
- Interviews of the shelter residents
- Interviews of HANKINS relatives
- Coroner's autopsy report for HANKINS
- Laboratory report from HANKINS' autopsy, the results of samples taken by the Coroner

¹⁴ "Sequestration" is the process whereby the involved officers are physically separated and isolated immediately following a use of force incident and are ordered not to discuss the incident with anyone except their legal representative, prior to their formal interview by the LEIFI team.

¹⁵ Further within this report, the term "officer" should be considered inclusive of the term "deputy"

- CCCSO Crime Lab reports from the incident scene
- CCCSO Crime Lab reports regarding the analysis of substances found at the scene

Scene Description

The Concord Homeless Shelter was located at 2047 Arnold Industrial Way in the City of Concord, County of Contra Costa, California. This building was a commercial structure, similar to a warehouse with business style off-street parking located along the front of the building. Arnold Industrial Way is an east-west roadway that runs parallel and north of State Route 4 (SR4), in essence, a frontage road to SR4.

Within the shelter building were numerous rooms and offices. The larger rooms had been converted into dormitory style living areas. The restrooms were commercial style with multiple sinks and partitioned stalls for toilets as well as private spaces for showers.

Laundry and other services were available on-site, as well as lockers to secure personal belongings.

HANKINS' Prior Criminal Incidents

HANKINS has had multiple police contacts throughout the course of his lifetime, the most relevant are referenced below:

In 1988, the Concord Police Department arrested HANKINS for burglary. HANKINS was convicted for a felony on this case and sentenced to California State Prison for seven years.

In 1993, the Antioch Police Department arrested HANKINS for robbery. HANKINS was convicted for a felony on this case and sentenced to California State Prison for ten years, one enhancement included "armed with a firearm."

In 2004, HANKINS was sent back to prison for theft, evading a peace officer, and resisting an officer. The arresting agency was not noted.

In 2013, the Contra Costa Sheriff's Office arrested HANKINS for obstructing or resisting an executive officer, battery on a peace officer, and violating terms of his parole.

In 2013, HANKINS was convicted for resisting an executive officer and sentenced to five years probation.

In 2014, the Contra Costa Sheriff's Office arrested HANKINS for resisting an officer, and being under the influence; he was sentenced to two years state prison.

In 2015, the Contra Costa Sheriff's Office arrested HANKINS for obstructing a public officer and violation of a domestic violence restraining order. He was sentenced to six years state prison.

FACTUAL SUMMARY

What follows is a summary of the incident, and for clarity and simplicity, will step through the events in chronological order. Certain times will be stated as approximations, when no log, radio communications, or BWC is available to support defining a precise time. Select witnesses will be referred to by witness number. Phrases surrounded by double quotations are verbatim, with clarifying details called out with “[”, whereas, abbreviated non-verbatim quotes will be surrounded by single quotation marks.

HANKINS, in November of 2015, was sent to California State Prison for a six-year sentence. HANKINS was released from prison on February 2nd, 2019.

On February 4th, 2019, HANKINS checked into the Concord Homeless Shelter¹⁶. On his shelter in-take paperwork, HANKINS did not list any of his relatives¹⁷ as emergency contacts.

The Concord Homeless Shelter, as the name implies, was¹⁸ a facility designed to provide housing and transitional services to men and women in the community who were temporarily homeless. The shelter provided a safe place to stay, access to meals, restrooms and laundry, counseling support, and other services.

According to (W-1), ‘On [HANKINS’] first day...it seemed like [HANKINS] was getting along fine.’ Through these initial days to February 7th, no residents or staff reported any problems or issues with HANKINS. On the morning of the 7th, (W-4) recalled exchanging pleasantries with HANKINS, “[HANKINS] was fine.” [HANKINS] said, “good morning... hi.”

During the evening of February 7th, (W-1) heard rumors that another resident had given drugs to HANKINS. The other resident told (W-1) that, “[HANKINS’] is going bonkers.”¹⁹ (W-1) also observed HANKINS, “threatening some imaginary people.”

In the early hours of February 8th, around 1 am, resident (W-7) was talking with other residents when one of the others²⁰ admitted to giving HANKINS, “some dope... and [HANKINS] is acting real weird now.” Another resident (W-5) awoke at 3 am to HANKINS, “standing there in the dark... at the end of my bed.”

Around 2 pm, (W-1), “[HANKINS] started getting more aggressive... [and] going into other [residents’] bed areas.” Once shelter staff began talking with HANKINS, (W-1) saw HANKINS,

¹⁶ https://www.homelesshelterdirectory.org/shelter/ca_central-county-interim-housing-program-concord-shelter

¹⁷ During interviews with relatives of HANKINS (detailed later in this report), one relative had moved in with another relative for mutual safety due to concerns about HANKINS.

¹⁸ As of the writing of this report, the Concord Homeless Shelter, at this location, had ceased operation.

¹⁹ Those investigators confronted the “other” resident with this allegation, however the person denied giving any ‘drugs’ to HANKINS.

²⁰ The resident providing the second-hand information about who admitted to giving HANKIN the drugs was not identified.

'grabbing and shaking the beds (of other residents).' Just prior to CPD's arrival, (W-1) noticed HANKINS was hyperventilating, while HANKINS was imitating a pistol by pointing, "finger guns... like shooting... at imaginary people."

Around 3 pm, (W-4) heard HANKINS, "growling," and observed HANKINS, "foaming at the mouth." (W-4) said Shelter staff began dealing with HANKINS. (W-4) opined that HANKINS was, "loaded... on some kind of drugs." At this point, (W-4) and the other residents were escorted out of the area by staff as other staff members continued to interact with HANKINS.

Around 3:45 pm, a staff member, (W-10) was in the men's dorm area and observed HANKINS, "looking toward the wall and... swinging his fist." (W-10) tried to engage HANKINS in a conversation, without success. HANKINS turned toward (W-10) and continued to swing his fists while grinding his jaw. (W-10) thought that HANKINS, "was on something serious, drug." HANKINS advanced toward (W-10), so (W-10) stepped back slowly and went to alert other staff members.

Around 4:00 pm, staff member (W-12) arrived for work and was contacted by another staff member (W-15) informing (W-12), "there's a client back there, he's under the influence, he's going crazy." (W-12) went to the men's dorm area and observed two other staff members, (W-13) and (W-14). From these two staff members, (W-12) learned that HANKINS was, "going crazy... grabbing everything... stomping on stuff... speaking to demons in his head."

Staff decided to request police assistance, and at 4:09 pm, the CPD Dispatch Center received a 9-1-1 call from staff member (W-11) regarding Steven HANKINS. (W-11) informed the dispatcher they needed an ambulance for a "5150"²¹ and that HANKINS was, "being very aggressive," and "punching the air and yelling." The call lasted about two minutes.

At 4:18 pm, (W-11) called 9-1-1 again, stating, "[HANKINS] is getting worse... [HANKINS] is punching the air." Someone in the background with (W-11) can be heard on the call saying, "he's getting very violent."

At 4:21 pm, Officer David Savage and Officer Raul Alvarado were dispatched to this incident. Over the radio, CPD dispatch informed the responding officers that HANKINS was "punching the air, being violent aggressive."

Around 4:22 pm,²² a third 9-1-1 call from a staff member (W-10) was received, they advised dispatch that, '[HANKINS] is getting worse and management asked them to call.'

²¹ "5150" is a common abbreviation for California Welfare & Institution (W&I) Code section 5150. Under W&I 5150, peace officers have the authority to take a person for a psychiatric evaluation if that person is deemed to be potentially harmful to themselves or others.

²² This call was recorded but not specifically logged into the CAD, the exact time is not available.

Around 4:25 pm, a fourth 9-1-1 call was received, (W-11) informed dispatch that, “[HANKINS] was swearing... screaming and yelling, punching things... [HANKINS] may be under the influence of something.”

A fifth (unknown exact time) 9-1-1 call was placed by (W-11), informing CPD that, “[HANKINS] is getting worse, we’ve got the safety of other people here.” The dispatcher confirmed that officers were on the way and would be arriving shortly.

(The following observations were made by reviewing the BWC video. Quoted statements may be taken from the officers’ interviews or from the BWC footage. Times listed will be from the BWC clock²³ when available.)

At 4:33 pm, Officer Savage and Officer Alvarado arrived at the shelter. They arrived in two different marked CPD patrol cars and both were wearing full CPD police uniforms. There were numerous people standing in front of the shelter. Officer Savage commented during his interview, “it’s unusual because there’s a lot of people that are out front. So, something’s going on inside... [staff] vacate the premises of people.”

The two officers were directed by staff toward the men’s restroom. A staff member (W-11), in the front lobby of the building, told the two officers, “be careful when you go back there.” Someone else told the officers to, “watch out.”

The two officers approached the restroom and a shelter staff member opened door to the restroom and said, “Steve.”

4:34:19 pm As Officer Savage entered the restroom, HANKINS was standing and pacing in the area between the partitioned toilet stalls. HANKINS was a 6’2” tall, 250-pound semi-muscular adult male. There were broom sticks and other objects easily accessible within the restroom.

Officer Savage began speaking to HANKINS, addressing him as, “Steve.” HANKINS walked a few steps away from the officers and looked into an open toilet stall. Officer Savage tried to get his attention. HANKINS said, “you guys have some fucking.” HANKINS was continuously grinding his jaw side-to-side and making grimacing facial movements, while bouncing from foot to foot, in a swaying motion. Officer Savage, during his interview noted, “[HANKINS] (was) under the influence of drugs... just by watching [HANKINS] it’s either bath salts²⁴ or bad crank²⁵... just [HANKINS] mannerisms... he’s very stiff... (the) posturing (of) his head.”

²³ The BWC displays a reference time. By way of comparison and analysis, the times were checked and confirmed to be accurate to within a second of each other.

²⁴ “Bath salts” is a reference to an easily obtainable substance that people abuse like an illicit narcotic

²⁵ “Crank” is a street reference to methamphetamine, also referred to as “meth,” or “crystal”

- 4:34:37 pm HANKINS and Officer Savage approached each other, and Officer Savage grabbed onto HANKINS' right wrist. Shortly after, Officer Alvarado grabbed onto HANKINS' left wrist. For about 12 seconds, the three were standing while the officers were asking HANKINS to lean forward. Both officers repeatedly asked HANKINS to, "relax," and to lean forward.
- 4:35:01 pm The officers guided HANKINS to the restroom sink counter and a struggle is visible/audible on Officer Savage's BWC. HANKINS pulled his wrist free from the officer's grip. HANKINS continued to struggle and resist the officers, moving himself away from the counter and toward the partition walls of the toilet stalls. Officer Alvarado was now out of position to grab onto HANKINS, because HANKINS' body was turned and against the stall partition. Neither officer had control of HANKINS' wrists. Officer Alvarado's BWC appeared to be struck and deactivated at this point.
- 4:35:15 pm The struggle continued for almost 15 seconds when Officer Savage's BWC was knocked loose and fell to the floor. The two officers and HANKINS were visible to the BWC that was knocked to the floor; all three were now standing next to the sink counter.
- HANKINS was visibly straining against the officers, and the officers were struggling to maintain control of HANKINS' wrists and arms.
- 4:35:25 pm The three moved out of the BWC frame into another area of the restroom. HANKINS continued to make unrecognizable grunting sounds. The back of Officer Alvarado was partially visible in the BWC frame. While both officers asked HANKINS to, "relax," at one-point HANKINS replied, "OK."
- 4:36:00 pm It is unclear if one of the officers bumped his radio microphone, however, in the background, the dispatcher appeared to be unable to contact the officers and initiated a "Code 33"²⁶ on the radio channel.
- For the next several minutes, the officers repeatedly asked HANKINS to "relax... we're here to help you" and HANKINS continued to scream and grunt. From the limited BWC view/angle, it appears the officers continued to hold HANKINS against the counter while all three remained standing. There were no sounds of strikes, impacts, blows, or Taser usage captured on the BWC during these several minutes.
- 4:38:15 pm The officers asked a shelter employee to remove a chair from the area.

²⁶ A "code 33" indicates that an emergency is in-progress, a repeating beep tone is broadcast, and all police units or other agencies monitoring CPD's radio would become aware that an emergency is in-progress.

- 4:38:30 pm A shelter employee retrieved the BWC from the floor and placed it onto the counter. During this brief repositioning of the BWC, the officers and HANKINS were seen standing and leaning against the sink countertop.
- 4:39:09 pm Officer Savage radioed dispatch and asked for, “Code 3 medical²⁷, and have them stage²⁸.”
- 4:40:56 pm The BWC is moved, and a “Concord Police” hat can be seen in the frame. The hat appeared to be on the head of one of the two CPD officers still holding HANKINS against the counter while standing.
- 4:41:41 pm Officer Alvarado radioed for a WRAP²⁹, however, due to radio feedback³⁰ the dispatcher was unable to understand the officer’s request.
- 4:41:57 pm Lieutenant Staten entered the restroom and Officer Savage asked Lieutenant Staten to inform responding officers about the needed WRAP.
- (Lieutenant Staten’s arrival provided additional BWC footage from this point forward.)*
- The two officers and HANKINS were standing and leaning against the counter. Lieutenant Staten stood behind HANKINS.
- 4:42:32 pm CCCSO Deputy Shields entered the restroom. The four officers formulated a plan to lower HANKINS to the ground, with an officer on each of HANKINS’ arms and legs. Officer Savage and Officer Alvarado retained control of HANKINS’ arms while Lieutenant Staten and Deputy Shields grabbed onto HANKINS’ legs.
- 4:42:44 pm HANKINS was lowered to the floor. A staff member (W-13) observed the officers as they moved HANKINS from a standing to laying position, and described it as, “each grabbed a leg... brought him down, to the ground gently. They didn’t slam [HANKINS].”
- 4:42:39 pm Officer Greenfield entered the restroom just as the other officers were guiding HANKINS to the floor. The officer took up a position at HANKINS’ left shoulder. Officer Greenfield told HANKINS, “you’re alright buddy,” while HANKINS continued to yell and grunt.

²⁷ “Code 3 medical” is a request to have fire and ambulance respond with lights and siren, as quickly as possible.

²⁸ “Stage” indicates that the fire/medical personnel should position themselves near the incident but not enter the scene until it is safe.

²⁹ The “WRAP” is a nylon and fabric device designed to wrap around a person’s legs, and is used to immobilize them to prevent escape and/or kicking.

³⁰ When two public safety radios are near each other, and one operator presses the transmit button, a feedback loop can be created causing the communication to echo and be unintelligible.

For several seconds, Officer Alvarado struggled against HANKINS' resistance, but the officer managed to successfully get two sets³¹ of handcuffs onto HANKINS' wrists. (W-13) further described HANKINS' resistance to the efforts of the officers to place HANKINS in handcuffs, "HANKINS was lifting the cops up."

- 4:43:19 pm Officer Greenfield asked HANKINS, "look at me," while HANKINS was grunting and rapidly blinking his eyes. HANKINS was laying with his face down and head turned toward his right, away from Officer Greenfield's direct view.
- 4:43:25 pm Officer Montes entered the restroom with Sergeant Phalen, who was carrying the WRAP.
- 4:43:40 pm HANKINS continued to make unintelligible sounds while Officer Greenfield told him, "we've got medical coming," while patting HANKINS on the right shoulder. Lieutenant Staten and Deputy Shields continued to maintain control of HANKINS' legs, using a "figure four" technique³².
- 4:43:53 pm Officer Savage can be heard discussing the WRAP, and the sounds of the WRAP being opened and prepared for use can be heard.
- 4:44:08 pm Officer Greenfield asked HANKINS, "are you alright Steve?" HANKINS was rolled by the officers to his side, during their efforts to apply the WRAP.
- 4:44:17 pm Officer Greenfield tried to feel for a pulse on HANKINS' neck
- 4:44:39 pm Officer Greenfield noticed HANKINS had stopped making noises and told the officers, "we need to roll [HANKINKS] over and do a sternum³³ rub." Officer Savage radioed for medical to be sent into the scene, and then, shortly after, returned to his vehicle to get an automated external defibrillator (AED).
- 4:44:57 pm Officer Greenfield began performing chest compressions and asked the other officers to assist by removing the handcuffs from HANKINS' wrist(s).
- 4:45:44 pm HANKINS' shirt was pulled back to expose his chest.
- 4:45:49 pm An AED can be seen on the floor near HANKINS.
- 4:46:02 pm An officer began applying the AED pads to HANKINS' exposed chest.
- 4:46:39 pm The AED was activated.

³¹ Linking two sets of handcuffs together creates a longer chain and is frequently used when handcuffing a larger person, who cannot get their hands together behind their back. This also creates less stress on the body of the handcuffed person.

³² A "figure four" is a common method to bend a person's leg and place one foot into the fold created by the knee. The straight leg is then bent to capture the other foot and prevent escape or kicking.

³³ A "sternum rub" is a common medical practice, where knuckles are rubbed against a person's sternum to stimulate them, causing them to awaken.

- 4:46:44 pm AED stated, "No shock advised." Ofc. Greenfield continued chest compressions, pausing after 30 compressions for another officer to provide respiration.
- 4:48:26 pm Officer Huffmaster took over chest compressions.
- 4:48:48 pm Medical personnel arrived at the restroom doorway, entered and began taking over aid. The AED announced it was "analyzing." One of the medics took over chest compressions.
- 4:49:49 pm Officer Savage directed another officer to identify some of the bystanders. The involved officers began to exit the restroom to allow the medical staff to continue working on HANKINS.
- 4:50 pm Additional CPD personnel began to arrive and started the process of identifying and conducting initial interviews with various witnesses. CPD Sergeant Graham arrived and took over management of the scene since the initial responding personnel were being isolated from additional tasks.
- 4:51:34 pm As Sergeant Graham entered the restroom; medical personnel were still performing chest compressions and the AED could be heard in the background. He exited the restroom to coordinate resources.
- 5:00:37 pm Sergeant Graham re-entered the restroom and observed medical personnel still performing chest compressions on HANKINS.
- 5:12 pm Sergeant Graham met with Lieutenant Nakayama and updated him regarding the incident. The audio of their conversation could not be understood.
- 5:20 pm According to the CPD dispatch log, HANKINS was pronounced deceased.
- 5:25 pm CCCDAO investigators began receiving notification of this incident and started responding to either the scene or to CPD headquarters for an incident briefing and assignment.

Sergeant Graham continued to coordinate resources and updated CCCSO Sergeant Dickerson regarding the location for the sequestration of Deputy Shields.

At approximately 8:00 pm, technicians from the Contra Costa County Sheriff's Crime Lab arrived at the Concord Shelter and began processing the incident scene. The Crime Lab took 208 photographs of the scene and collected various items of potential evidence, e.g., pill bottles from HANKINS' locker, and a white crystal material from one of the shower stalls.

At approximately 8:20 pm, Deputy Rector of the CCC Coroner's Office was notified of HANKINS' death by CPD Officer Coniglio. Deputy Rector responded to the shelter and met with CPD Detective Espino. Deputy Rector documented and removed HANKINS to the morgue.

Later in the evening, Protocol investigative teams conducted interviews of the involved officers, witnessing officers, medical personnel, shelter residents, shelter staff, and HANKINS' relatives.

Body-worn camera footage

The Concord Police Department issues body-worn cameras (BWC) to its officers. The Contra Costa County Sheriff's Office does not issue or possess BWCs.

Key portions of the events depicted above were captured. Relevant footage of the initial officers' arrival was captured, as well as the contact those officers made with HANKINS. Within several seconds, a struggle ensued causing one BWC to fall to the floor and the other to stop recording³⁴.

The BWC from Officer Savage, after landing on the floor of the restroom, continued to capture audio and video, however, the angle of the camera, pointing up toward the ceiling, only captured a limited portion of Officer Alvarado's back.

A few minutes after the BWC struck the floor, a shelter staff member retrieved the BWC and placed it onto the counter. In that brief moment of movement, the BWC captured a very brief view of the two officers and HANKINS, all three were still standing at the sink counter.

Additional arriving CPD officers had their BWCs activated, and the third CPD member to arrive, Lieutenant Staten, had his BWC active; this provided a new view into the scene within the restroom.

There was BWC footage of the remaining portion of the incident to include the arrival of medical personnel.

Interviews conducted, after the fact, of witnesses were also captured on either BWC or audio recorded.

None of the involved officers viewed their BWC footage, prior to providing statements during their interviews.

Interviews of Involved Police Officers and Deputy Sheriffs

There were ten (10) sworn law enforcement officers/deputies involved in this incident. Of that number, seven (7) were considered "Actors" under the Protocol³⁵ guidelines.

During the course of the criminal investigation, an officer has the right to be represented by an attorney. The officer may choose to provide a statement, physical evidence, and other relevant information. It's important to note that neither an officer or civilian can be compelled to provide a statement or any other evidence in a criminal investigation. An officer can only be compelled to provide a statement or other relevant information during an internal

³⁴ The cause of the BWC stoppage is a theory, however, it does not appear likely that the officer wearing the BWC, while trying to contain HANKINS' wrist, would have also tried to deactivate his BWC.

³⁵ An "Actor" is a law enforcement employee whose conduct was actually or conceivably a factor in the fatality.

administrative investigation by the officer's employer³⁶. In this investigation, all the involved officers provided voluntary statements to the CCCDAO, CPD, and CCCSO investigators with their attorney present. Each police officer was interviewed separately from the others within hours of the incident and after being subject to sequestration.

Officer David Savage

Officer David Savage was interviewed on February 8th, 2019 at 10:00 pm. In attendance were Sr. Insp. Hendershot, Det. Provost, Det. Jacquez, and Atty. Piggott. The following information is a summary of the relevant portions of Ofc. Savage's interview:

Ofc. Savage has been involved in law enforcement for 38 years. His training on Use of Force, cardiopulmonary resuscitation (CPR), and de-escalation was current.

Ofc. Savage was working a patrol assignment and was wearing a full CPD uniform. He was dispatched to the Concord Homeless Shelter for a subject, "under the influence of drugs or (having) mental issues." Dispatch provided a name and description of the subject, and that HANKINS was on PRCS³⁷. The shelter is within Ofc. Savage's beat³⁸.

Ofc. Savage arrived with Ofc. Alvarado, who was assigned to assist him. On arrival, Ofc. Savage noticed an unusual number of people standing out front; this gave him the impression, "something big" was going on inside and that shelter staff had cleared out the uninvolved residents.

Ofc. Savage and Ofc. Alvarado are directed into the building and to the restroom where they encountered HANKINS. Ofc. Savage noticed that HANKINS was, "extremely agitated," and can tell, "[HANKINS] is under the influence of something... either bath salts or bad crank." HANKINS is moving in a manner that Ofc. Savage recognized as a sign of someone possibly under the influence.

Ofc. Savage was concerned, due to HANKINS' state, the tight space in the restroom, and the presence of other residents and staff; Ofc. Savage decided to grab onto HANKINS in an effort to handcuff HANKINS. Unfortunately, as Ofc. Savage placed his hands onto HANKINS' right arm, HANKINS responded by tensing up. HANKINS was also sweaty. Around this time, Ofc. Savage's BWC was knocked off his uniform.

Due to HANKINS' resistance, Ofc. Savage attempted to perform a leg sweep³⁹ but HANKINS did not fall to the ground. Ofc. Savage then tried moving HANKINS toward the sink, but also

³⁶ The Public Safety Officers Procedural Bill of Rights Act, is codified in Government Code section 3300, et seq.

³⁷ "PRCS" is an abbreviation for Post Release Community Supervision, also commonly referred to as parole, where a person was recently released from prison but still falls under the supervision of the correctional system.

³⁸ A "beat" is a term used to describe the geographical area an officer would be assigned to patrol. Generally, a city is divided into multiple beats.

³⁹ A "leg sweep" is where an officer tries to knock the legs out from underneath a subject, causing that person to fall to the ground.

recognized that a leg sweep would no longer be safe; it could cause HANKINS to strike his head. Ofc. Savage and Ofc. Alvarado pushed/pulled HANKINS into a corner area of the sinks, where the two counter surfaces make an “L” shape. The two officers held onto HANKINS and kept him in that position. While holding HANKINS, the three were sliding along the countertop over a six (6) foot distance as the struggle with HANKINS continued.

Based on HANKINS’ actions, Ofc. Savage had radioed for additional police units and also for medical assistance, recognizing that HANKINS’ behavior was a possible sign of, “(excited) delirium⁴⁰.”

CPD Lieutenant Staten arrived, asked Ofc. Savage what help was needed, and Ofc. Savage asked for more officers and a WRAP leg restraint. A CCCSO deputy arrived and Ofc. Savage felt they had sufficient resources to get HANKINS to the ground. They formulated a quick plan, with an officer/deputy each taking a limb and lowering HANKINS to the ground.

HANKINS continued to struggle, even while on the ground; he attempted to push up. CPD Officer Greenfield and a second CCCSO deputy arrived, as well as an officer entered with a WRAP device. As the officers started to transition HANKINS’ legs from a “figure four” hold to a position for the WRAP, Ofc. Savage heard Ofc. Greenfield request that they turn HANKINS over and perform a “sternum rub... [HANKINS] is out.”

As HANKINS is rolled over, Ofc. Savage recognized that HANKINS’ pupils were dilated, and that HANKINS is unconscious. Ofc. Savage began asking if the shelter staff had an automated external defibrillator (AED) and after determining the shelter did not have an AED, Ofc. Savage ran to his vehicle to retrieve his assigned AED.

On his return, Ofc. Savage saw Ofc. Greenfield performing chest compression. They applied the AED pads and allowed the AED to analyze HANKINS. The AED instructed them to continue with chest compressions, while Ofc. Savage provided respiration (breaths) to HANKINS.

The medical team arrived and took over the care of HANKINS.

Ofc. Savage confirmed that none of the officers used any strikes or other police equipment to subdue HANKINS, and that the movement of HANKINS to the ground, “it wasn’t a drop... [HANKINS] didn’t strike anything on his way down.”

Officer Raul Alvarado

Officer Raul Alvarado was interviewed on February 8th, 2019 at 10:46 pm. In attendance were Sr. Insp. Sousa, Det. Giacletto, Det. Ingersoll, and Atty. Murphy. The following information is a summary of the relevant portions of Ofc. Alvarado’s interview:

⁴⁰ The symptoms of “Excited delirium” are said to include aggressive behavior, extreme physical strength, hyperthermia, and recent use of a stimulant drug such as cocaine or methamphetamine. This condition is not recognized by all medical communities.

Ofc. Alvarado has been involved in law enforcement for 3 years. Ofc. Alvarado was working a patrol assignment and was wearing a full CPD uniform. He overheard Ofc. Savage getting dispatched to a "5150" call. Ofc. Alvarado didn't hear any cover⁴¹ unit being assigned, so Ofc. Alvarado offered to serve as Ofc. Savage's cover.

Officer Alvarado recalled hearing on the police radio that the subject of the call was, "swinging in the air...becoming combative or agitated..." Ofc. Alvarado noticed on his mobile data computer that the subject was 6'2" and over 200 pounds.

The two officers arrived, exited their vehicles, and approached the front of the shelter. Officer Alvarado recalled someone saying, "be careful." They're directed to the restroom where they encountered HANKINS. He noticed HANKINS was tall and heavyset, and that HANKINS had a, "blank stare, [HANKINS'] skin looked pale... [HANKINS] was just swinging at the air."

Officer Savage was trying to calm HANKINS down while grabbing onto HANKINS' right hand. Ofc. Alvarado grabbed onto HANKINS' left hand and noticed, "I felt [HANKINS] strength, he was pretty strong... my grasp got loose." Ofc. Alvarado was concerned that HANKINS might strike Ofc. Savage or gain access to the equipment either officer were carrying on their belts.

The officers managed to push HANKINS into the corner created by the sink countertop. They radioed for "Code 3" cover⁴². Ofc. Alvarado considered his options, and wanted to get HANKINS into handcuffs, but Ofc. Savage suggested the two hold onto HANKINS until help arrived.

Officer Alvarado was concerned, "I can't let go of... [HANKINS'] hand, [HANKINS] (is going to) assault... my partner, me... citizens inside... the facility... and [HANKINS] is huge."

Additional officers arrived to provide assistance and they managed to, "guide [HANKINS] down," to the ground. Ofc. Alvarado never saw any officers strike or punch HANKINS.

⁴¹ A "cover unit" refers to sending a second (or more) officer(s) to assist a solo officer on a call for service.

⁴² "Code 3 cover" refers to a radio request for additional officers, to respond with lights and siren.

Lieutenant Sam Staten

Lieutenant Sam Staten was interviewed on February 8th, 2019 at 11:29 pm. In attendance were Sr. Insp. Sousa, Det. Giacletto, Det. Ingersoll, and Atty. Murphy. The following information is a summary of the relevant portions of Lieutenant Staten's interview:

Lieutenant Staten has been involved in law enforcement for 20 years. Lieutenant Staten was a defensive tactics⁴³ instructor for 18 years. Lieutenant Staten was serving as the patrol watch commander and was wearing a full CPD uniform.

Lieutenant Staten overheard Ofc. Savage getting dispatched to a "5150" call at the homeless shelter but wasn't concerned until Ofc. Savage requested, "Code 3" cover. While monitoring the radio traffic of responding officers, Lieutenant Staten did not hear any radio updates from Ofc. Savage or Ofc. Alvarado, so Lieutenant Staten headed toward the shelter. Lieutenant Staten increased his speed when neither officer on-scene answered the dispatcher's call.

Lieutenant Staten reached the shelter and couldn't see the officers; he went into the lobby and was directed to the interior by staff members. Lieutenant Staten heard yelling and approached the restroom where he observed Ofc. Savage and Ofc. Alvarado holding HANKINS against the countertop. Lieutenant Staten could tell that Ofc. Savage was "winded," and Lieutenant Staten radioed for a WRAP to help contain HANKINS.

A deputy from CCCSO arrived and all four grabbed HANKINS' by his legs/arms, "pulled [HANKINS] straight back, lift(ed) [HANKINS'] legs up... [HANKINS] twisted... turned... tried to go into the fetal position... [HANKINS] (tried) to kick us off." Once HANKINS was on the floor, Lieutenant Staten tried to apply a Figure Four leg restraint, but HANKINS managed to kick Lieutenant Staten off. Lieutenant Staten and the deputy managed to apply the Figure Four and secured HANKINS' legs.

Lieutenant Staten was able to see, from his position at HANKINS' legs, that the other officers were struggling with getting control of HANKINS' arms, while HANKINS continued to scream. Once HANKINS was in handcuffs, Lieutenant Staten began to straighten HANKINS' legs, in preparation for using the WRAP. HANKINS continued to kick, and the officers began to apply the WRAP. As soon as HANKINS' legs were flat, Lieutenant Staten heard Ofc. Greenfield ask to roll HANKINS over.

As HANKINS was rolled to his back, Lieutenant Staten saw that HANKINS' lips were blue. Ofc. Greenfield performed a sternum rub on HANKINS and then immediately started CPR. Ofc. Savage ran to get an AED and Lieutenant Staten radioed for medical assistance to enter the facility.

⁴³ "Defensive tactics" is the training where officers learn how to physically control a person, how to apply restraint devices, and how to avoid becoming injured or inadvertently injuring another person.

Lieutenant Staten then began to coordinate responding resources as the medical team took over care of HANKINS.

Deputy Casey Shields

Deputy Shields was interviewed on February 8th, 2019 at 11:56 pm. In attendance were Sr. Insp. Sousa, Det. Giacletto, Det. Ingersoll, and Atty. Murphy. The following information is a summary of the relevant portions of Dep. Shields' interview:

Dep. Shields has been involved in law enforcement for 12 years and was serving as the patrol deputy wearing a full CCCSO uniform on the date of this incident. Dep. Shields overheard, via police radio scanner, that CPD was requesting other CPD officers to respond, "Code 3" to the Concord Homeless Shelter. Dep. Shields started to head toward the shelter and asked his dispatch center to check if CPD needed outside assistance. This shelter is close to Dep. Shields' assigned area.

Dep. Shields arrived at the shelter and followed a CPD officer into the shelter. That officer turned around to exit and Dep. Shields continued toward the men's restroom. As Dep. Shields entered the restroom, he observed two or three CPD officers along with HANKINS; he was bent over the countertop.

Dep. Shields took a position to the right rear of HANKINS, and the group of officers all pulled HANKINS' limbs at the same time. Dep. Shields was holding HANKINS' right calf/ankle. With HANKINS face down, Dep. Shields applied a Figure Four leg lock to HANKINS. Dep. Shields felt HANKINS' resistance, which caused Dep. Shields to hold the legs tightly. Another CPD officer took over control of HANKINS' legs while the officers prepared to place a WRAP on HANKINS' legs.

Dep. Shields saw the officers roll HANKINS onto his back and begin CPR on HANKINS' chest. Dep. Shields exited the restroom and waited outside.

Officer David Greenfield

Officer David Greenfield was interviewed on February 8th, 2019 at 10:45 pm. In attendance were Sr. Insp. Hendershot, Det. Provost, Det. Jacquez, and Atty. Piggott. The following information is a summary of the relevant portions of Ofc. Greenfield's interview:

Ofc. Greenfield has been involved in law enforcement for 11 years, and he was working a patrol assignment and was wearing a full CPD uniform on the date of the incident. Ofc. Greenfield was at CPD headquarters and he overheard Ofc. Savage requesting "Code 3 cover."

Driving from the station, Ofc. Greenfield arrived at the shelter and was directed toward the interior/rear of the facility. As Ofc. Greenfield entered the restroom, Ofc. Savage, Ofc. Alvarado, Lieutenant Staten were in the process of taking HANKINS to the ground. Ofc. Greenfield described, "it wasn't anything crazy," "it wasn't... a pick-up and slam, it wasn't anything rough."

Ofc. Greenfield saw that HANKINS did not strike his head on anything on the way down and did not lose consciousness.

Once HANKINS was on the ground, Ofc. Greenfield contacted HANKINS at his left shoulder area. Ofc. Greenfield noticed that Ofc. Savage was having difficulty getting HANKINS' right arm out from underneath HANKINS' body, so Ofc. Greenfield reached in, freed HANKINS' right arm, and then proceeded to apply the handcuffs.

During this time, HANKINS is still resisting and making noises. Ofc. Greenfield's attention is drawn to the officers applying the WRAP, while he was telling HANKINS to, "calm down," and to turn his head. Ofc. Greenfield did not hear HANKINS making any noises, and Ofc. Greenfield noticed HANKINS was not blinking, so he told the other officers to roll HANKINS over.

After performing a sternum rub on HANKINS, and seeing that HANKINS' color was changing, Ofc. Greenfield commenced chest compressions. Another officer arrived with an AED, which they applied and activated. Ofc. Greenfield thought he had performed chest compressions for three to four minutes.

Once AMR arrived, Ofc. Greenfield went to his patrol vehicle, thinking this incident might become a Protocol.

Officer Clifton Huffmaster

Officer Clifton Huffmaster was interviewed on February 8th, 2019 at 11:09 pm. In attendance were Sr. Insp. Hendershot, Det. Provost, Det. Jacquez, and Atty. Piggott. The following information is a summary of the relevant portions of Ofc. Greenfield's interview:

Ofc. Huffmaster has been involved in law enforcement for 3 ½ years, he was working a patrol assignment and was wearing a full CPD uniform on the date of the incident. Ofc. Huffmaster was at CPD headquarters and he overheard Ofc. Savage being dispatched to this incident, a W&I 5150 call for a person being violent at the Concord Homeless Shelter. Ofc. Huffmaster was getting dress at the time and was not assigned to this call.

However, later, Ofc. Huffmaster heard Ofc. Savage asking for, "Code 3 cover," and Ofc. Huffmaster responded from the rear parking lot of CPD. When Ofc. Huffmaster arrived at the shelter, he was directed into the restroom. When Ofc. Huffmaster entered the restroom, he observed HANKINS on his stomach and four officers attempting to restrain him. HANKINS appeared to be resisting by, "squirming and... trying to keep his hands underneath his body and not allowing the officers to pull his hands back."

Ofc. Huffmaster could see one officer had a knee on HANKINS' left shoulder and another officer had a knee on HANKINS' right shoulder, as a third officer brought HANKINS' legs into a Figure Four hold. An officer entered the restroom with a WRAP device, and they began to secure the WRAP. As this was occurring, Ofc. Huffmaster heard an officer reassuring HANKINS, and then the officer instructed them to roll HANKINS over; HANKINS wasn't breathing.

As other officers removed portions of the WRAP and a handcuff, Ofc. Greenfield commenced chest compressions. Someone ran to get an AED. During the chest compressions, Ofc. Huffmaster also attempted to find a pulse, however, he was unable to detect a pulse. As the AED arrived, Ofc. Huffmaster pulled HANKINS' shirt up and applied the AED pads; the AED then performed an analysis of HANKINS, without advising a "shock" to the patient.

Ofc. Greenfield continued chest compressions and Ofc. Huffmaster took over when Ofc. Greenfield began to tire. Ofc. Huffmaster only stopped when AMR arrived and took over patient care.

Sergeant Shawn Phalen

Sergeant Shawn Phalen was interviewed on February 8th, 2019 at 10:08 pm. In attendance were Sr. Insp. Sousa, Det. Giacletto, and Det. Ingersoll. The following information is a summary of the relevant portions of Sergeant. Phalen's interview:

Sergeant Phalen has been involved in law enforcement for 20 years, and he was working as a district commander; he was wearing a full CPD uniform on the date of the incident. He overheard the radio call, sending two patrol officers to the Concord Homeless Shelter for a welfare check on a male acting erratic, yelling, screaming, and punching the air.

Sergeant Phalen then heard one of the officers requesting Code 3 cover, and since he was on Salvio St, Sergeant Phalen thought he was one of the closest available cover units. As Sergeant Phalen arrived and began entering the shelter, he overheard a request for a WRAP. Sergeant Phalen returned to his vehicle to retrieve the WRAP. Sergeant Phalen headed back in and entered the men's restroom.

Sergeant Phalen started to undo the WRAP packaging, and he moved to HANKINS' feet area; HANKINS was on his stomach. Sergeant Phalen started to apply the "ankle portion" of the WRAP. The other officers turned HANKINS over, and Ofc. Greenfield started to administer chest compressions.

An officer returned with an AED and they connected it to HANKINS. Chest compressions continued until AMR arrived.

Interviews of Six Medical/Fire Responders

The responding rescue personnel from AMR and Consolidated Fire (three from each agency) were separately interviewed by the LEIFI team composed of Sr. Insp. Garcia, Det. Loercher, and Det. Jackson.

After a review of the recordings and reports, it is best to summarize these interviews; their accounting of the incident were very similar.

The medical personnel did not observe, nor were they told that any airway obstruction or neck restraint was used by the officers on HANKINS. Furthermore, there was no bruising or marks indicative of a physical fight involving HANKINS. AMR arrived a few minutes before Consolidated Fire. Per county health policy, the medical team attempted to resuscitate HANKINS for thirty (30) minutes.

Paramedic Richardson described the officers as, “all focused on helping [HANKINS].” Additionally, Paramedic Richardson observed, “jugular vein distention,” which, in his training and experience, is indicative of a drug overdose, including fentanyl use.

EMT Silva noted that HANKINS’ chest was more difficult to compress. EMT Silva did not see anything unusual on HANKINS’ upper body.

EMT Wolf also noted the difficulty with giving chest compressions to HANKINS, and described it as, “pushing into sand.”

Interviews of Civilian Witnesses

There were multiple civilian witnesses to HANKINS’ behavior at the shelter, both prior to his contact with police and during the incident. The following are a few key elements, taken from over a dozen interviews. It is important to note, no allegations of abuse at the hands of the officers/deputy were raised by any of the witnesses. Some witnesses were initially interviewed and subsequently re-interviewed by members of the LEIFI team; all the interviews and BWC/audio were compared to insure none of their statements were misconstrued. *(The numbering and order of the witnesses is purely random; nothing should be inferred as to importance.)*

W-1, a shelter resident

(W-1), on HANKINS’ arrival at the shelter, welcomed HANKINS, and had the impression that HANKINS was getting along fine. (W-1) noticed HANKINS, on the 7th, was yelling at and, “threatening... imaginary people.” On the 8th, HANKINS, seemed to get more aggressive. HANKINS also simulated pistols, using his fingers. Before the police arrived, “[HANKINS] was hyperventilating.”

W-2, a shelter resident

(W-2) on the night of the 7th, noticed HANKINS was in the restroom, “a long time. It seemed...odd.”

(W-2) on the 8th, noticed HANKINS pacing back and forth, sweating profusely, and looking up at the ceiling. (W-2) described HANKINS as, “the lights were on, but nobody was home.”

W-3, a shelter resident

(W-3) on the night of the 7th, observed HANKINS pacing around the dorm after lights out, heard HANKINS say, “motherfucker,” while HANKINS was pointing his fingers like pistols. (W-3)

normally takes medications to sleep, however, (W-3) deferred the medication to stay alert overnight. Once the staff arrived, (W-3) took his medication and only awoke after the police had arrived.

W-4, a shelter resident

(W-4) recalled exchanging, “good mornings” with HANKINS. On the morning of the 7th, they greeted each other. (W-4) said, “[HANKINS] was fine.” On the 8th, around 3 pm, (W-4) saw HANKINS exit the dorm, “growling... foaming at the mouth... which scared the shit out of me... (W-4) thought [HANKINS] was loaded... on some kind of drugs.” (W-4) had heard from other residents that HANKINS, “was in the bathroom... shooting coke or something.” (W-4) saw (W-14) opened the door for HANKINS to exit and, instead, HANKINS turned and went back into the dorm.

W-5, a shelter resident

(W-5), on the early morning of the 8th, around 3 am, noticed HANKINS standing at the end of (W-5)’s bed. Later, (W-5) overheard (W-1) say, “that’s my friend’s stuff,” when HANKINS was pulling the sheets off someone else’s bed.

W-6, a shelter resident

(W-6) described interacting with HANKINS when HANKINS initially arrived at the shelter. According to (W-6), HANKINS and (W-6), “talked a few times... [HANKINS] seemed level-headed.” However, HANKINS, “got a hold of some shit and just lost his mind.” On the morning of the 8th, (W-6) saw HANKINS pulling items from other residents’ beds. (W-6) did not think HANKINS was having a mental issue, “[HANKINS] was definitely on drugs.” (W-6) admitted to being a drug addict and to knowing how other people on drugs react.

W-7, a shelter resident

(W-7) described HANKINS behavior on the night of the 7th, as, “psychotic... like [HANKINS] was having a break... talking to himself, fighting to himself... it was pretty disconcerting.” (W-7) identified (W-6) as the source of narcotics for HANKINS. (*The interviewers later circled back to interview (W-6) but (W-6) denied being HANKINS’ source.*) On the 8th, HANKINS’ behavior worsened, and HANKINS became sweaty and pallid.

W-8, a shelter resident

(W-8) described HANKINS’ behavior as, “growling,” and “coming at staff.”

W-9, a shelter resident

(W-9) described HANKINS as, “walking back and forth, like he was on something... [HANKINS] was amped up on something.”

W-10, a shelter staff member

(W-10) normally did not work with the unit where HANKINS was housed, however, due to a staff shortage, (W-10) assisted with clean-up in HANKINS' dorm. (W-10) had no significant prior interaction with HANKINS. On the 8th, (W-10) described HANKINS' behavior, "he was facing the wall, swinging his fist... and talking to someone." (W-10) approached HANKINS to determine if he was ok and HANKINS turned toward (W-10) while still swinging his fists. (W-10) felt HANKINS was, "on some serious drugs." (W-10) informed several other staff members and those staff members attempted to assist HANKINS.

(W-10) did not witness the police dealing with HANKINS inside the restroom.

W-11, a shelter staff member

(W-11) characterized HANKINS, on his arrival, as, "real calm... quiet." HANKINS, on the 8th, was, "tripping hard." (W-11) was in and out of the dorm, making 9-1-1 calls, and then saw the police trying to contain HANKINS. (W-11) described the police efforts as, "trying to contain [HANKINS]," and, "(the police) got [HANKINS] down on the floor... next thing... two police officers were running back out to get their (AEDs)."

W-12, a shelter staff member

(W-12) described his interaction with HANKINS, prior to the incident as ordinary. However, on the 8th, HANKINS was, "speaking to demons in his head." (W-12) observed the police officers dealing with HANKINS, "(the police) tried talk(ing) to [HANKINS] (but) [HANKINS] wasn't having it," and, "(the police) tr(ied) to restrain [HANKINS], that's when [HANKINS] started resisting." (W-12) saw one of the officer's BWCs getting knocked to the ground.

(W-12) saw the officers attempting to pin HANKINS against the counter, and, "then they put him on the ground." The officers began checking HANKINS' pulse, rolled HANKINS over, removed HANKINS' handcuffs, and began CPR. (W-12) confirmed that (W-13), (W-14), and (W-15) were inside the restroom during the police interaction with HANKINS.

W-13, a shelter staff member

For the first few days of HANKINS' stay, HANKINS stayed on his bunk the majority of the time, and was, "just laid back." (W-13) didn't recall HANKINS having any issues with other residents, in fact, HANKINS was, "polite... (and) passive."

(W-13)'s encounter with HANKINS, on the 8th, started with (W-13) hearing that someone was acting violently in the men's dorm. (W-13) proceed to the dorm and saw HANKINS, "fighting in the air and stomping on... bugs and stuff that (wasn't) there... [HANKINS] was breathing really heavy... changing colors." HANKINS escalated to, "throwing punches... near us... and trying to rip beds apart." The beds were a few hundred pounds, and HANKINS was, "moving them with no problem." (W-13) asked another staff member to call 9-1-1 as HANKINS was, "getting worse... acting more violent."

HANKINS entered the restroom, and (W-13) with other staff members entered and removed some of the possible weapons (mops) inside. The police arrived and took over speaking with HANKINS. The police grabbed onto HANKINS, and (W-13) described the police as being, “gentle,” and HANKINS as, “strong and moving (the police officers) around.”

(W-13) saw HANKINS becoming, “more erratic,” and decided to stay within the restroom because only two officers were dealing with HANKINS. It took another five minutes for additional officers to arrive, and during this time, (W-13) felt the two officers, “they were gentle,” and, “if that was my kid, that’s how I’d want my kid to be treated.”

Once there were four officers, (W-13) saw them, “(bring) [HANKINS] down, to the ground gently. (The officers) didn’t slam [HANKINS], no tasing.” Once on the ground, HANKINS was, “lifting (the officers) up. Just huge, you could hear it in his breath... just exerting himself... and lifting the cops up.” The officers managed to get HANKINS handcuffed, an officer, “felt (for a) pulse, because [HANKINS] stopped fighting... (the officers) got off [HANKINS], and (the officers) flipped HANKINS over and started CPR.”

(W-13) confirmed that officers did not use any tasers or other significant force against HANKINS. (W-13) reiterated, “(the officers) just did it... the way I would want to see somebody I cared about handled by the police.”

W-14, a shelter staff member

Other shelter staff asked (W-14) to help calm HANKINS; the other staff was nervous about HANKINS’ behavior. As (W-14) arrived in the dorms, HANKINS was trying to, “rip the top of the locker, like a bear. HANKINS had lost skin color... [HANKINS] was having a hard time breathing... [HANKINS] was hyperventilating.” Based on (W-14)’s experience from using drugs and assisting other drug users, he opined that, ‘somebody gave [HANKINS] something and [HANKINS’] body (was) reacting.’ HANKINS proceeded to attempt to rip a mattress apart, “[HANKINS] (was) very strong.”

(W-14) could tell that HANKINS, “wasn’t breathing right,” and (W-14) tried to encourage HANKINS to lay on the floor to cool down and to take deep breaths. HANKINS was, “like... overdosing... [HANKINS] (had) white stuff around (his) lips.” HANKINS continued to rummage through the personal bins of other residents and (W-14) thought HANKINS was searching for a weapon.

When the officers arrived, (W-14) described the officers’ interaction with HANKINS as, “cool, calm, and collected.” When HANKINS tried to, “bust through the (officers),” “(the officers) hooked [HANKINS] arms.” (W-14) described his many years of wrestling experience, and that, in his opinion, the officers were, “(trying) to restrain [HANKINS], not pop his arm, not to harm him.”

(W-14) was concerned that HANKINS might over-power the officers, so (W-14) stayed within the restroom to provide assistance if needed. During the struggle, (W-14) saw an officer's BWC get knocked free, and (W-14) retrieved it, placing the BWC onto the counter.

Other officers arrived, and finally managed to get HANKINS to the floor, "not in a rough manner... professionally, because they weren't trying to hurt [HANKINS]."

W-15, a shelter staff member

(W-15) was informed that HANKINS was having, "an issue," and (W-15) noticed HANKINS was, "spun as fuck... like [HANKINS] has bad dope." (W-15) described the first two arriving officers as, "peacefully," and "calm."

(W-15) stayed out of the restroom, in order to prevent other shelter residents from interfering during the police contact, and also directed other responding officers toward the restroom.

Interviews of HANKINS' Relatives/Family

HANKINS' family was interviewed by the LEIFI team composed of Sr. Insp. Rivera and Det. Smith. The investigators meet with (W-16) and (W-17); they briefly explained the circumstances surrounding HANKINS' death.

(W-17) was aware that HANKINS had previous encounters with police, resulting in HANKINS being secured using a WRAP. (W-17) was also familiar with HANKINS extensive criminal history. (W-17) and (W-16) discussed HANKINS' difficulty with drug abuse and HANKINS' physiological issues. In 2014, (W-17) was protected from HANKINS by a restraining order.

In 2018, (W-17) moved in with (W-16) for mutual protection from HANKINS. (W-16) was aware, on HANKINS' previous police encounters, HANKINS had been struck by Tasers⁴⁴ with no effect on him.

(W-18) was unavailable for a face-to-face meeting and was called by Det. Smith. (W-18) knew that HANKINS, "might need medication." When HANKINS would consume narcotics, "he would be hard to deal with." (W-18) thought HANKINS' only on-going medical condition was Hepatitis C. (W-18) could tell when HANKINS would consume drugs because he would act strange.

Autopsy

On February 11th, 2019, around 1 pm, the Contra Costa County Coroner performed an autopsy on HANKINS. In attendance, from the LEIFI team, were Sr. Insp. Rivera, DDA Grove, Det. Jacques, and Crime Lab technicians. The autopsy was performed by Dr. Ogan, which included sending biological samples of HANKINS' tissues to NMS laboratory for examination.

⁴⁴ A "Taser" is an electroshock weapon used to incapacitate targets via shocks that temporarily impair the target's physical function.

Dr. Ogan, in his final report, concluded that HANKINS had, “no evidence of neck compression or breathing restraint.” Instead, Dr. Ogan reported that HANKINS had, “[a] high level of methamphetamine and amphetamine [in his blood toxicology.]” Dr. Ogan opined that HANKINS’ cause of death was, “probable cardiac dysrhythmia,” “due to acute methamphetamine toxicity.”

The subsequent report from NMS Labs indicated that HANKINS’ blood contained, “120 ng/mL” of amphetamine. NMS stated, “Following a single 30 mg dose to adults, an average peak plasma level of 100 ng/mL was reported at 2.5 [hours].” HANKINS’ blood level of amphetamine was higher than the study results.

Findings

The CCCDAO investigation determined the following key factual findings:

- HANKINS having been recently released from state prison; was on parole and subject to the terms and conditions of his release.

- On the evening prior to HANKINS' death, several shelter residents heard rumor of another resident providing HANKINS with an unknown controlled substance. After ingesting the substance, HANKINS' behavior drastically changed.
- On the morning and day of HANKINS' death, his behavior continued to deteriorate; he became more aggressive.
- On February 8, 2019 at approximately 4:09 pm, shelter staff called 9-1-1 multiple times to request assistance in dealing with HANKINS behavior. The caller stated HANKINS was "punching the air and yelling."
- At approximately 4:34 pm, Officers Savage and Alvarado arrived on-scene and contacted HANKINS in the men's bathroom. They noted his physical size (6'02", 250), the fact that HANKINS had the objective signs of drug intoxication, and the confined space within the bathroom.
- The officers had the legal authority to physically detain HANKINS.
- In an attempt to control him, Officers Savage and Alvarado each took hold of one of HANKINS wrists, however he physically resisted. A struggle ensued and the officers pinned HANKINS against the countertop and waited for additional police officers. At approximately 4:41 pm, Lieutenant Staten and Deputy Shields (CCCSO) arrived on-scene and entered the bathroom to assist Officers Savage and Alvarado. The officers also called for medical aid, asking the aid to position themselves nearby for a quick response.
- Lieutenant Staten and Deputy Shields each took hold of one of HANKINS' legs and together with Officers Savage and Alvarado the group of four officers eased HANKINS to the ground. Once on the ground, they attempted to secure his wrists and legs; however, HANKINS continued to actively resist.
- Officer Greenfield entered the bathroom and assisted the other officers in gaining control of HANKINS arms so he could be handcuffed. A few moments later, Officer Greenfield observed that HANKINS appeared to be unresponsive. Once the officers determined HANKINS was unresponsive, they removed his handcuffs and began giving him chest compressions and rescue breaths. At one point even using an AED in an attempt to revive him.
- HANKINS was pronounced deceased at approximately 5:19 pm, by paramedics from AMR.
- None of the civilian witnesses, medical responders, or other officers reported seeing the use of any excessive force upon HANKINS.
- Dr. Ikechi Ogan (CCCSO/Coroner's Office) performed an autopsy on HANKINS' remains and determined the cause of death to be: Probable Cardia Dysrhythmia (Rhythm disorder), Due to: Acute Methamphetamine Toxicity.
- A Coroner's Inquest was held on November 19, 2019. The jury returned a verdict of: death caused by accident.

Applicable Legal Standards

The California District Attorneys Association Uniform Crime Charging Standards Manual directs that criminal charges shall not be brought unless the prosecutor, based upon a complete investigation and thorough consideration of all the pertinent information readily available to him or her, believes there is evidence that proves beyond a reasonable doubt, that the accused is guilty of the crime to be charged. Additionally, the charging standards direct that there must be legally sufficient admissible evidence to prove each element of the crime. The admissible evidence must be of such convincing force that it would warrant conviction of the crime charged by a reasonable and objective fact finder after the fact finder has heard all the evidence and after considering the most plausible, reasonable, and foreseeable defenses that could be raised under the evidence.

The applicable California Penal Code Sections are as follows:

Section 187: Murder is the unlawful killing of a human being or fetus with malice aforethought.

Section 188: Such malice may be express or implied. It is express when there is manifested a deliberate intention unlawfully to take away the life of a human being. It is implied when the killing resulted from an intentional act, the natural consequences of the act are dangerous to human life, and the act was deliberately done with knowledge of the danger to and with conscious disregard for human life.

Section 192: Manslaughter is the unlawful killing of a human being without malice.

Section 196: Homicide is justifiable when committed by public officers and those acting by their command in their aid and assistance, either –

1. In obedience to any judgement of a competent Court; or
2. When necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty; or
3. When necessarily committed when retaking felons who have been rescued or have escaped, or when necessarily committed in arresting persons charged with a felony, and who are fleeing from justice or resisting arrest.

Section 197: Homicide is also justifiable when committed by any person in any of the following cases:

1. When resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person; or,
2. When committed in defense of habitation, property, person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony, or against one who manifestly intends or endeavors, in a violent, riotous or tumultuous manner, to enter the habitation of another for the purpose of

offering violence to any person therein; or,

3. When committed in the lawful defense of such person, or of a wife or husband, parent, child, master, mistress, or servant of such person, when there is reasonable ground to apprehend a design to commit a felony or to do some great bodily injury, and imminent danger of such design being accomplished; but such person, or the person in whose behalf the defense was made, if he was the assailant or engaged in mutual combat, must really and in good faith have endeavored to decline any further struggle before the homicide was committed; or
4. When necessarily committed in attempting, by lawful ways and means, to apprehend any person for any felony committed, or in lawfully suppressing any riot, or in lawfully keeping and preserving the peace.

Section 199: The homicide appearing to be justifiable or excusable, the person indicted must, upon his trial, be fully acquitted and discharged.

Any killing of a human being at the hands of another is a homicide. A homicide may be criminal or justifiable depending upon the circumstances. It is justifiable if done while resisting a violent felony or in self-defense or in defense of another if it reasonably appears to the person claiming the right of self-defense or the defense of another that he or she actually and reasonably believed that he or she or another was in imminent danger of great bodily injury or death. (See *People v. Williams* (1977) 75 Cal. App. 3rd 731.) In protecting oneself or another, a person may use all force which he or she believes reasonably necessary, and which would appear to a reasonable person, in similar circumstances, to be necessary to prevent the injury, which appears imminent. (See California Criminal Jury Instruction CALCRIM 505) In order to justify killing another person in self-defense or in the defense of another, actual danger of death or great bodily injury is not necessary. (CALCRIM 505.)

Section 148(a)(1)

Every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, in the discharge or attempt to discharge any duty of his or her office or employment, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

Welfare and Institutions Code 5150

When a person, as a result of a mental health disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer...may, upon probable cause, take, or cause to

be taken, the person into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment in a facility designated by the county for evaluation and treatment and approved by the State Department of Health Care Services.

Pursuant to CALCRIM 505:

A homicide is justifiable and not unlawful when committed by a person who:

1. Reasonably believed he or she or someone else was in imminent danger of being killed or suffering great bodily injury,
2. Reasonably believed that the immediate use of deadly force was necessary to defend against that danger; and
3. Used no more force than was reasonably necessary to defend against that danger.

Pursuant to CALCRIM 507:

A homicide by a peace officer is justifiable and not unlawful when:

1. The killing was committed while overcoming actual resistance to some legal process or while performing any other legal duty
2. The killing was necessary to accomplish one of those legal purposes; and
3. The officer had probable cause to believe that someone posed a threat of death or serious bodily harm, either to the officer or to others.

Probable cause exists to believe that someone poses a threat of death or serious bodily harm when facts known to the person would persuade someone of reasonable caution that the other person is going to cause death or serious bodily harm to another. (CALCRIM 507.)

The People have the burden of proving beyond a reasonable doubt that the killing was not justified. (CALCRIM 505 and 507.) It is not a criminal defendant's burden to prove that force was necessary or reasonable. The People must prove beyond a reasonable doubt that the officer did not have an actual or reasonable belief in the need for self-defense or the defense of others. Absent direct evidence that an officer did not actually or reasonably believe in the need for force, circumstantial evidence must be used. If two reasonable conclusions can be drawn from circumstantial evidence, however, and one of those reasonable conclusions points to innocence, jurors are instructed that they must accept the one that points to innocence. (CALCRIM 224.)

If the killing was not justifiable as outlined above, or excusable as in an accidental killing, only then would it be criminal. Moreover, if an act is committed by reason of a mistake of fact which disproves any criminal intent, it is not a crime. Therefore, a person is not guilty of a crime if he or she commits an act under an actual belief in the existence of certain facts and circumstances which, if true, would make the act lawful. (See CALCRIM 3406.)

Pursuant to CALCRIM 2656:

A person is guilty of resisting or obstructing or delaying a peace officer when:

1. A Peace officer was lawfully performing or attempting to perform his duties as a peace officer
2. When the person acted, he knew, or reasonably should have known, that the officer was a peace officer performing or attempting to perform his duties.

Legal Analysis

The sole question to be decided by the CCCDAO is whether any of the involved law enforcement officers violated any criminal laws. Whether an officer is criminally liable depends on the facts of the case and whether those facts constitute a crime under the applicable laws.

During the course of the investigation, it was determined that HANKINS obtained methamphetamine during his stay at the Concord Homeless Shelter. Following ingestion, HANKINS began to exhibit erratic and aggressive behavior. As described by witnesses, physical manifestations of the drug intoxication included HANKINS (1) foaming at the mouth (2) hyperventilating (3) growling and (4) grinding his jaw. In addition to the physical signs of proximate substance abuse, witnesses at the Concord Homeless Shelter described HANKINS responding to aural and visual hallucinations. Consistent with a drug induced psychosis, HANKINS was observed (1) threatening imaginary people, (2) speaking to demons in his head and (3) pointing his finger as pistol to shoot at unseen subjects. By the afternoon on February 8, HANKINS became increasingly unpredictable and aggressive. Witnesses described HANKINS (1) being violent (2) punching things; (3) grabbing everything; and (4) stomping stuff. In response to multiple 911 calls from staff for police assistance, Officer Savage and Officer Alvarado proceeded to the Concord Homeless Shelter.

Upon entering the men's restroom, Officer Savage and Officer Alvarado came upon HANKINS who was swaying back and forth staring into an open toilet bowl. The Officer Savage further observed HANKINS was making grimacing facial movements while continuously grinding his jaw. Officer Savage identified the rigidity and mannerisms to be consistent with objective signs of drug intoxication. In conjunction with these observations, Officer Savage radioed for additional units and medical assistance.

The governing principles of reasonable suspicion are well settled. A temporary detention for questioning or investigation may be justified by circumstances falling short of the probable cause needed for an arrest. (*Terry v. Ohio* (1966) 392 U.S.1, 22.) To justify such a detention, an officer need only have a reasonable suspicion of criminal activity; more specifically, "the circumstances known or apparent to the officer must include specific and articulable facts causing him to suspect that (1) some activity relating to crime has taken place or is occurring or about to occur, and (2) the person he intends to stop or detain is involved in that activity. Not

only must he subjectively entertain such a suspicion, but it must be objectively reasonable for him to do so: the facts must be such as would cause any reasonable police officer in a like position, drawing when appropriate on his training and experience, to suspect the same criminal activity and the same involvement by the person in question.” (*People v. Loewen*, (1983) 35 Cal.3d 117, 123.) Where a reasonable suspicion of criminal activity exists, the public rightfully expects a police officer to inquire into such circumstances “in the proper exercise of the officer’s duties.” (*People v. Wells* (2006) 38 Cal.4th 1078, 1083.) As detailed above, based upon the totality of the circumstances, Officer Savage and Officer Alvarado had sufficient basis to investigate HANKINS for being under the influence of a controlled substance (HS 11550) as well as being a danger to others or himself (W&I 5150).

Officer Savage and Officer Alvarado took hold of HANKINS’ wrist and repeatedly asked him to relax. HANKINS immediately struggled with the officers, using his size to pull away and free his wrist from the officers’ control. In physically breaking free, HANKINS was actively resisting, obstructing, and delaying the officers in violation of Penal Code Section 148(a)(1). HANKINS continued to struggle against the officers. Unwilling to comply with a wrist hold, HANKINS was pushed against the bathroom countertop. Cognizant of the confined space and fixtures in the bathroom, Officers refrained from taking HANKINS to the ground until the presence of additional support. With the assistance of Lieutenant Staten and Deputy Shields, law enforcement slowly lowered HANKINS to the ground with an officer at each limb. Once on the ground, HANKINS continued to resist, forcibly lifting the officers who were attempting to place him in handcuffs. In response to the continued resistance, Lieutenant Staten and Deputy Shields took hold of HANKINS’ legs in an effort to mitigate HANKINS’ ability to rise up from the floor.

At the time of this incident, Penal Code section 835a provided that a law enforcement officer who had reasonable cause to make an arrest could use “reasonable force to effect the arrest, to prevent escape[,] or to overcome resistance.” The United States Supreme Court has held that a police officer’s use of force should be analyzed under the reasonableness standard of the Fourth Amendment to the United States Constitution. The Supreme Court stated, “The ‘reasonableness’ of a particular 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 . . . the calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.” *Graham v. Conner* (1989) 490 US 386, 396-397.

A thorough review of the investigation establishes that that Officer Savage, Officer Alvarado, Lieutenant Staten, and Deputy Shields used reasonable force against HANKINS in an effort to gain compliance while he physical resisted and struggled against the officers. Despite the physical resistance HANKINS’ employed, at no time during the encounter did an officer utilize a chemical agent, physical strike, or a less lethal weapon of any kind in order to gain compliance. Other than the efforts to restrain HANKINS in handcuffs, the involved officers used minimal force to during the encounter. Consistent with the limited degree of forced utilized, the forensic

pathologist concluded there was no evidence of neck compression or breathing restraint. In accordance with the applicable legal standard set forth in **Conner** and codified in Penal Code 835a, Officer Savage, Officer Alvarado, Lieutenant Staten, and Deputy Shields used reasonable force to gain HANKINS compliance.

Once on the ground, HANKINS began grunting and rapidly blinking his eyes. In the ensuing moments, HANKINS became nonresponsive. Officer Greenfield who had entered the bathroom when HANKINS was taken to the ground, continued to talk to HANKINS and felt for a pulse on HANKINS' neck. Officer Greenfield's physical contact with HANKINS was limited to the context of emergency assistance. When no pulse was detected, Officer Greenfield immediately initiated cardiopulmonary resuscitation. Further lifesaving intervention was employed, however emergency personal was unable to revive HANKINS. Officer Greenfield's contact with HANKINS was limited to the context of rendering aid. In accordance with the applicable legal standard set forth in **Conner** and codified in Penal Code 835a, Officer Greenfield acted lawfully.

A blood sample collected during the autopsy revealed that HANKINS had 6,800 nanograms of methamphetamine in his blood, ten times greater than a lethal dose. Having ingested a lethal quantity of methamphetamine, HANKINS died as a result of complications from acute methamphetamine toxicity.

Accordingly, in applying the applicable law and the California District Attorney's Uniform Crime Charging Standards to the present case, there is no evidence to support a criminal prosecution. As such, no further action will be taken in this case.