

**CYRIL H. WECHT, M.D., J.D.**

900 FIFTH AVENUE  
SUITE 505  
PITTSBURGH, PENNSYLVANIA 15219  
(412) 281-9090  
FAX (412) 261-3650  
EMAIL wechtpath@cyrilwecht.com

FORENSIC PATHOLOGY  
LEGAL MEDICINE

**PRIVILEGED & CONFIDENTIAL**

**ATTORNEY WORK PRODUCT**

April 15, 2019

Michael E. Cardoza, Esquire  
Cardoza Law Offices, Inc.  
1407 Oakland Boulevard, Suite 200  
Walnut Creek, California 94596

**Re: Jacob John Bauer, Deceased**

Dear Mr. Cardoza

Pursuant to your request, I have reviewed the following materials provided to me in the matter referenced above:

1. Coroner Investigator's Report
2. Autopsy report
3. Toxicology report
4. Paramedics record
5. Medical records from ValleyCare Hospital from August 1, 2018.

**Jacob Bauer**, a 38 year old white male, died while being restrained by police on August 1, 2018. When he was approached by police, Mr. Bauer was reportedly combative and non-compliant. Police tasered and restrained Mr. Bauer using handcuffs, "The Wrap", and a spit mask. He was found to be unresponsive by emergency medical services while still restrained and despite resuscitative efforts, Mr. Bauer was pronounced dead at Stanford Health Care-ValleyCare Hospital in Pleasanton, California. An autopsy was performed that revealed minor blunt force injuries, conjunctival petechial hemorrhages. Post mortem toxicology testing revealed methamphetamine.

Michael E. Cardoza, Esquire

April 15, 2019

Page 2

**Paramedics Logistics Alameda records from August 1, 2018, document the following:**

Emergency medical services (EMS) received a call from 911 at 3:02 p.m. and arrived at 44 Mission Drive Pleasanton, California to find Jacob Bauer in police custody in a wrap and a spit hood with police holding him down. Reportedly, Mr. Bauer was combative before being tasered and afterward. He remained combative after being placed in "The Wrap". EMS got to Mr. Bauer at 3:15 p.m. and saw police holding him up. EMS was given access only to administer Versed in his bicep. Following the Versed administration, Mr. Bauer was moved to a gurney, restrained with leather straps to the gurney, and moved into the ambulance. The spit mask was removed, and Mr. Bauer was found to be pulseless and apneic. EMS began CPR and utilized a Lucas device. EMS administered epinephrine and intubated Mr. Bauer during transport to ValleyCare Hospital.

**ValleyCare Pleasanton medical records from August 1, 2018, document the following:**

Mr. Bauer presented to the emergency department unresponsive via EMS. He was receiving cardiopulmonary resuscitation (CPR) by a Lucas compression device, and he was then intubated. He had been given 4 mg of Versed by EMS before arrival. At the hospital, the endotracheal tube was replaced, as the initial intubation by EMS was found to have the end of the endotracheal tube positioned within the esophagus. Mr. Bauer was given multiple rounds of epinephrine and bicarbonate. Despite forty minutes of resuscitation at the hospital, Mr. Bauer never regained spontaneous circulation and was pronounced dead on August 1, 2018 at 4:15 p.m. A body temperature was not documented.

**Michael Joseph Ferenc, M.D., performed an autopsy on Jacob Bauer on August 2, 2018 for Alameda County Sheriff-Coroner Gregory J. Ahern. The autopsy report reveals the following:**

**Findings**

**1. Injuries**

**A. Head and Neck**

1. External abrasions to head
2. Conjunctival petechiae
3. No internal head or neck injuries

Michael E. Cardoza, Esquire  
April 15, 2019  
Page 3

- B. Torso
  - 1. Minor external injuries
  - 2. Contusions to anterior fatty tissues
  - 3. Contusions to fat and muscles of back
  - 4. Taser-type barbs embedded in left abdomen
  - 5. No injuries to thoraco-abdominal organs
- C. Limbs
  - 1. Abrasions and contusions to wrists
  - 2. Other abrasions and contusions to arms
- 2. Obesity (BMI 40.5)
- 3. Cardiac hypertrophy and dilatation
- 4. Foam in bronchi
- 5. Pulmonary congestion, slight
- 6. Enlarged liver and spleen
- 7. Toxicology (CVT-18-10193)
  - A. Toxicology on femoral blood
    - 1. Methamphetamine 0.42 mg/L
    - 2. Amphetamine 0.04 mg/L
    - 3. No other substances or alcohol detected
  - B. Vitreous humor chemistry panel is non-contributory
- 8. Histology
  - Pulmonary congestion
    - A. Focal slight intra-alveolar hemorrhage
    - B. Slight hepatic steatosis
    - C. Hepatic fibrosis

Cause of Death: Acute methamphetamine toxicity

Other Conditions: Probable mechanical asphyxia while being placed in restraint device by police; cardiac hypertrophy; morbid obesity

Michael E. Cardoza, Esquire

April 15, 2019

Page 4

A note was made by Dr. Ferenc that despite EMS administering Midazolam to Mr. Bauer, the post mortem toxicology testing did not reveal positivity for midazolam. Dr. Ferenc concluded that the lack of even trace amounts of Midazolam suggests that "his circulatory system already had collapsed or was in the process of collapsing when the dose was administered".

Dr. Ferenc described the circumstances of death of Mr. Bauer in his report and noted that Mr. Bauer received 2 or 3 Taser administrations, including drive stun application. Mr. Bauer had been handcuffed and placed in "The Wrap" restraining device. Mr. Bauer was given 4 mg of intramuscular Midazolam in his arm. Paramedics were not given further access to Mr. Bauer for 8 minutes after the injection. When paramedics did access and evaluate Mr. Bauer, he was found to be pulseless and apneic. Approximately 28 minutes passed between the Midazolam injection and arrival at the emergency department. A body temperature was not identified in the medical record.

Dr. Ferenc reviewed eight audiovisual recordings after the autopsy that were provided to him by Pleasanton Police. One video was taken by a citizen and seven videos were from police body cams. Dr. Ferenc's interpretation of the videos is as follows:

"Mr. Bauer was standing on a sidewalk when two officers approached him on foot. He initially appeared calm and denied any drug or alcohol use. When officers attempted to detain him, he rapidly became agitated and combative. The initial officers attempted to control him with force including Taser deployment (at least one set of Taser barbs and several drive stuns). More officers arrived, he was handcuffed posterior with two sets of handcuffs (length to length or in series), and officers began to apply "The Wrap" restraint device including a spit mask (covering his mouth and lower nose). During part of this time Mr. Bauer was loudly yelling statements such as "... Trying to kill me and rape me, Mr. Trump....You are suffocating me...." The application of the restraint device until he was in a "jack-knifed" or about 90 degree sitting position took about 14 minutes. During that time, officers were physically restraining him including pushing from his back to hold him in the sitting position. By the latter part and/or end of those about 14 minutes his face appeared purple and his discernible voluntary motions and/or respiratory efforts appeared markedly diminished and/or absent. It was about another 3 minutes when paramedics were injecting his right bicep with 4 mg of Midazolam. It was approximately 8 minutes more before Mr. Bauer was on the gurney and Paramedics were given full access to him."

At autopsy Mr. Bauer measured 69 inches tall and weighed 274 pounds. He was described as "markedly obese" with an abdominal pannus and an abdominal fat pad measuring

Michael E. Cardoza, Esquire

April 15, 2019

Page 5

3½ inches thick. His rigor mortis and livor mortis were both described as “moderate” and his face was congested. “The Wrap” had been previously loosened, the spit mask was not present and the handcuffs were not present. There was evidence of medical intervention. Two taser barbs without wires were embedded in the left abdomen approximately 1 ½ inches apart. No injuries consistent with other barb sites were identified. The external examination revealed abrasions and contusions on the head, torso, and arms including the hands and wrists, ranging in size from ¼ inch to 1 ½ inches. The injuries on the wrists were patterned and consistent with injuries from handcuffs. One larger abrasion was present on the right elbow. Examination of the subcutaneous tissues and muscle identified small hemorrhages in the fat layer of the anterior abdomen and hemorrhages in the fat and muscle over the right shoulder blade and both sides of the mid back. Petechial hemorrhages were present in the conjunctivae of the lower eyelids. The heart was slightly to moderately dilated and weighed 440 grams. The liver weighed 2420 grams and the spleen weighed 420 grams. The brain weighed 1600 grams. Cerebral edema was not described nor were any injuries identified. The tongue, neck muscles, and neck structures were unobstructed and without injury.

**Post mortem toxicology testing was performed by Central Valley Toxicology, Inc.** and the results revealed the following:

Testing of the blood was positive for d-amphetamine and d-methamphetamine. The level of d-amphetamine was 0.04 mg/L and the level of d-methamphetamine was 0.42 mg/L. No other drugs, medications, or alcohols were identified. Vitreous electrolyte and glucose testing revealed a sodium of 146 mmol/L, potassium of 9.0 mmol/L, chloride of 125 mmol/L, and a glucose level of 23 mg/dL.

**Cyril H. Wecht, M.D., J.D., performed a second autopsy on Jacob Bauer on September 12, 2018 at the request of John and Rose Bauer, the parents of the decedent. The second autopsy report revealed the following:**

Mr. Bauer was unembalmed with evidence of post mortem changes consistent with a prolonged time of examination from death. He arrived for autopsy surrounded by multiple freezer packs over various parts of the body. Dark blackish-brown discoloration was present over various parts of the body, particularly over the head through the face, neck, thorax, and upper abdominal areas. There were excised areas on the anterolateral aspects of the volar surfaces of the distal forearms, the left lateral suprailiac crest, and of the back at the midline extending from the neck to the waist. Antemortem injuries consistent with taser barbs could not be identified. The previously sectioned organs were examined and were without evidence of significant identifiable antemortem disease process. The neck structures were identified and were without fracture or discoloration. The spinal cord was removed and was intact and without injury. Soft tissue injuries were not identified.

Michael E. Cardoza, Esquire

April 15, 2019

Page 6

Histology sections from the defects on the wrists and left torso were collected and revealed epidermis and dermis with post mortem degenerative changes and focal collections of structures consistent with mold/fungus growth. There was no obvious hemorrhage or changes consistent with a taser device. However, the examination was limited due to previously removed tissue in these regions.

Toxicology testing performed by NMS labs was performed on blood and liver tissue collected during the second autopsy. Testing identified ethanol of 0.031 g/100 mL, positivity for caffeine, amphetamine of 65 ng/mL in blood and 240 ng/g in liver tissue, and methamphetamine of 660 ng/mL in blood and 1700 ng/g in liver tissue. The presence of ethanol in the testing performed from blood collected at the second autopsy was most likely due to decomposition changes that occurred between the first and second autopsies. No ethanol was present in the samples collected during the first autopsy.

**Ronald I. Parker (PI 24634), performed a private investigation into the death of Jacob Bauer at the request of John and Rose Bauer, the parents of the decedent. His report reveals the following:**

The exact nature or reason for the Pleasanton Police to detain Jacob Bauer was unknown. During the restraint multiple police officers initiated some sort of physical restraints against Mr. Bauer, including the use of handcuffs, taser, "The Wrap", leg restraint, and spit mask. Mr. Parker obtained information from a witness, Neil Delos Santos, working across the street from the location of the incident. Mr. Santos captured videos of the incident over approximately 15 minutes, and he described the events to Mr. Parker. Mr. Santos witnessed police officers forcing Mr. Bauer to the ground and handcuffing him. Mr. Santos provided a copy of his video to the Pleasanton Police Department. Mr. Santos showed Mr. Parker a portion of the two videos that he captured. Mr. Parker described events in the video as follows:

"I saw Jacob on his back while about four officers have their knees and body on top of Jacob trying to pin Jake up to the ground, and as if to prevent Jacob from getting up or leaving. It appeared the officers were aggressively restricting Jacob's movements by using their body weight on top of Jacob while holding and pressing their bodies on Jacob's upper torso and legs. During that time Jacob was heard screaming as if in extreme pain, and as if adamantly yelling to the officers to stop holding him and to release him. Based on Jacob yelling as if in extreme pain and his body movements, it appeared Jacob was suffering from a severe panic state by being restrained. During that time I saw an Officer place what appeared as being a "Stun Gun" against Jacob's neck area, then appeared to activate the device several times. As the apparent "Stun Gun" was being placed against Jacobs neck I saw Jacob became noticeably more agitated.

Michael A. Cardoza, Esquire

April 15, 2019

Page 7

Jacob's screams became louder and urgent, as if with each discharge of the "Stun Gun" his pain increased. A few seconds later an Officer was heard repeatedly and loudly instructing another officer involved, and whom had just discharged the "Stun Gun" to now "Tase him", referring to pointed at Jacob and about three feet away from Jacob's neck and shoulder area, and appeared to discharge the Taser darts into the left side of Jacob's neck and/or chest area. Jacob responded to being Tasered by immediately elevating his screams in obvious pain while violently attempting to move his body and escape from what was happening to him. Based on the officer's movements and Jacob's movements in response, it appeared the officer had discharged the Taser's electrical shock to Jacob's body about three more times, and in about 3 to 4 second bursts. During that time officers continued using their body weight to hold Jacob pinned to the lawn using their knees, body weight, and while grabbing Jacob's hands from pulling away from them. At no time did I ever witness anything to indicate Jacob was attempting to assault or in any way intentionally harm any (sic) of the officers. I saw that Jacob was forcefully trying to pull away from the officer as well loudly screaming as if in pain, and as if in serious panic from being held down and restricted." Further in the video Mr. Parker witnessed officers pinning Jacob's body to the lawn by placing their body weight and knees on Jacob's chest area while an officer held Jacob's legs. Several officers stood nearby while this occurred. It appeared that Jacob was completely restrained and was completely motionless. An officer then removed his "baton" and aggressively struck Mr. Bauer on his right upper thigh / hip area approximately three times and using a significant amount of force. This officer then walked to the left side of Jacob's chest and stomped on Jacob's chest area three times using his right leg with a significant amount of force. During the strikes and stomps, Jacob's body remained motionless and did not respond. Mr. Parker then saw Jacob's body being wheeled toward and into the ambulance and at no time was Jacob moving.

## MEDICOLEGAL QUESTIONS

### 1. What was the cause of Jacob Bauer's death?

Jacob Bauer died as a direct result of his interactions with police on August 1, 2018. Jacob experienced asphyxia from a significant decrease in oxygen available to his body. This decrease resulted from multiple actions taken upon his body by police as they restrained him. Before his interaction with police that day, Jacob had no underlying natural disease process that would have caused him to die. Additionally, his intoxication with methamphetamine was unlikely to have caused him to die.

### 2. Did the use of a "Stun Gun" and the Taser play a role in Jacob Bauer's death?

Yes.

Michael E. Cardoza, Esquire

April 15, 2019

Page 8

Use of the "Stun Gun" and the Taser resulted in physical pain and discomfort which led to an elevated blood pressure and increased body temperature. The use of these two methods to control Jacob added stress to Jacob's heart, and compounded the effects of the methamphetamine intoxication, the multiple restraints used by police, and his obesity.

**3. Did Jacob Bauer have any natural disease processes that contributed to his death?**

Yes.

Jacob was morbidly obese with a body mass index of 40.5. His state of obesity contributed to his death, as his obese body had an increased demand for oxygen even at a resting state. Additionally, positioning his body onto his obese abdomen placed upward pressure on the diaphragm and limited expansion of his lungs and intake of air. These factors produced an overall decrease in oxygen available to his body to maintain life.

**4. Did the presence of methamphetamine and amphetamine contribute to Jacob Bauer's death?**

Yes.

Methamphetamine and the metabolite amphetamine can cause elevated blood pressure, cardiac dysrhythmias and elevations of body temperature. Some of Jacob's resistance to police may have been the result of the effects of methamphetamine intoxication. The process of police restraining Jacob would have added to the cardiovascular effects and elevated body temperature that may have been present from the intoxication.

**5. What, if any, physical/observable indications are there when someone is actively intoxicated or "high" on methamphetamine / amphetamine?**

Observable indications of methamphetamine intoxication are varied and non-specific, and can range from no observable physical and behavioral changes to agitation, mood swings, paranoia, hallucinations, delusional behavior, anxiety, and muscle spasms.

**6. What is the most plausible reason that the Versed (midazolam) was not identified on the post mortem toxicology testing?**

The lack of midazolam in the post mortem forensic toxicology testing on samples collected at both at the first and at the second autopsy indicates that the intramuscular injection of 4 mg of midazolam was given either after Jacob's cardiovascular system had collapsed or while it was collapsing. In other words, the injection was given after Jacob's heart had stopped beating or just as it was beginning to cease.



Michael E. Cardoza, Esquire  
April 15, 2019  
Page 9

**7. Did the inappropriate placement of the endotracheal tube by EMS contribute to Jacob Bauer's death?**

When paramedics were given access to Jacob to assess and treat him, they found him unresponsive and began CPR and placed an endotracheal tube (ET). The ET placement was performed as a life saving measure, as Jacob was not breathing and did not have a pulse. Misplacement of the ET did prevent oxygen from reaching Jacob's lungs and body. However, Mr. Parker's review of the video documenting the incident shows that Jacob became motionless and remained motionless before paramedics had access to Jacob and he remained motionless even during strikes and stomps to his body by police. It is most likely that Jacob was unresponsive and not breathing during these strikes and stomps and that even with correct placement of the ET by paramedics when they were given access to Jacob, he would have sustained irreversible changes to his brain due to lack of oxygen.

**OPINION**

Following my review of the medical records, ambulance record, private investigators report, autopsy and toxicology reports, and my performance of a second autopsy including toxicology testing, it is my opinion, expressed with a reasonable degree of medical certainty, that Jacob Bauer died as a result of asphyxia during physical restraint by police, including blunt force pressure and impacts, handcuffing behind the back, encasement in "The Wrap", and spit mask. The asphyxia occurred from compression of the chest from "The Wrap" and from the placement of officers' weight on the torso as well as decreased access to breathed air due to the spit mask. Additionally, positioning of the hands in restraints behind the back limited movement of the diaphragm and further limited air intake.

Acute methamphetamine intoxication, use of "Stun Gun" and Taser devices, and a morbidly obese body habitus, were contributing factors to Jacob's death.

Given the absence of midazolam in Jacob's toxicology testing and his lack of response in captured video recordings noticed before the injection, Jacob's heart stopped beating at or before the time of the injection.

**PRIVILEGED & CONFIDENTIAL**

**ATTORNEY WORK PRODUCT**

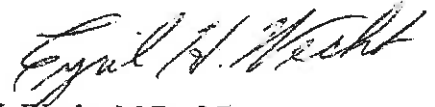
Michael E. Cardoza, Esquire

April 15, 2019

Page 10

At the time of our review, histopathology slides and photographs from autopsy were not available for review. This report and the opinions provided are based on the materials reviewed and are subject to change upon review of additional information.

Very truly yours,

A handwritten signature in black ink, appearing to read "Cyril H. Wecht". The signature is written in a cursive, slightly slanted style.

Cyril H. Wecht, M.D., J.D.

CHW/srw