



# Office of the District Attorney Stanislaus County

**Birgit Fladager**  
District Attorney

**Assistant District Attorney**  
David P. Harris

**Chief Deputies**  
Annette Rees  
Marlisa Ferreira  
Stephen R. Robinson  
Jeffrey M. Laugero  
Jeff Mangar

**Bureau of Investigation**  
Chief Terry L. Seese

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## PRESS RELEASE

### For Immediate Release

Date: January 10, 2020  
Re: Deputies Found to be Justified

### For More Information Contact:

John Goold, Public Information Liaison  
Phone: (209) 525-5550

Modesto, California - Stanislaus County District Attorney Birgit Fladager announced today that, after a thorough review of all the relevant evidence gathered during the investigation into the death of Rudy Santillan that occurred on July 16, 2019, the cause of death was determined to be methamphetamine toxicity and, further, the use of force by the deputies was justified.

A copy of the letter provided to the Stanislaus County Sheriff's Department is attached to this press release.

# # #

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January 10, 2020

Sheriff Jeff Dirkse  
Stanislaus County Sheriff's Office  
250 E. Hackett Road  
Modesto, CA 95358

Re: Rudy Santillan in-custody death

Dear Sheriff Dirkse:

This office has completed its review of the death of Rudy Santillan (DOB 9/12/1982) which occurred on July 16, 2019 while officers were attempting to detain him. Based on my review, I must conclude that each deputy acted legally, and all were justified in actions taken during the arrest.

## SUMMARY

The investigation established that the following events took place:

On July 16, 2019 at approximately 4:30 p.m., the step-father of Rudy Santillan called 911 to report that his son was acting crazy. The step-father said he had never seen Santillan acting like this before and that he (Santillan) was breaking things. When deputies arrived in the area of the call it was found that Santillan had left on foot. Neighbors/witnesses described seeing Santillan and said he was "crazy" and seemed to be under the influence. One witness described him as yelling/confronting anyone he saw and he (Santillan) was yelling for them to get inside their houses. The step-father followed Santillan and called 911 again to report Santillan's location.

A short time later, Santillan was found by deputies near the intersection of Frazier Street and Lassen Avenue in a vacant lot. Santillan was incoherent and disheveled. The contacting deputies were wearing body cameras (BWC) which captured the interaction. The step-father also witnessed the incident although he remained in his vehicle some distance away. Santillan refused to follow commands and tried to run away from the deputies. The commands were loud enough that the step-father reported being able to hear them from his location.

As Santillan tried to run, he was Tased. Santillan was momentarily knocked to the ground by the Taser but he refused to comply with commands. As deputies used their weight to hold him down he struggled to escape. Even after the Taser was re-deployed Santillan still resisted. Due to the lack of effect of the Taser, a K-9 was used. The bite was effective in getting Santillan to

stop fighting, but he still refused to surrender his hands to be handcuffed. It took multiple deputies using their strength to get Santillan's hands behind his back to be handcuffed.

After a short period of time, it was noticed that Santillan was no longer responsive and his pulse was checked. When no pulse was detected CPR was started and an ambulance called to the scene. Paramedic EMTs were on scene within two minutes. Santillan was taken to the hospital but he died several hours later.

Pursuant to the county-wide incident protocol, an investigation was commenced. An autopsy revealed Santillan had methamphetamine in his system. The pathologist listed the cause of death as "complications of acute methamphetamine toxicity." A significant finding made during the autopsy was that Santillan had no significant internal injuries or fractures and the law enforcement-caused injuries appeared to be superficial and were not listed as a cause of death.

## LAW

Dr. Ferenc's finding that the cause of death of Santillan was due to "complications of acute methamphetamine toxicity" exonerates the deputies. The District Attorney's jurisdiction is related to the requirements of the Penal Code, to investigate deaths that result from the use of force. In this case, the pathologist has determined that there was no nexus between the deputies conduct and Santillan's death. However, for those who might suggest the deputies are still somehow at fault, this review will address this "possible" point. To do so, we must first assume (despite the evidence to the contrary) that the struggle or other tools used by the peace officers involved caused Santillan's death.

The use of force by a peace officer is governed by the Fourth Amendment. As the U.S. Supreme Court has said:

"Determining whether the force used to effect a particular seizure is 'reasonable' under the Fourth Amendment requires a careful balancing of "'the nature and quality of the intrusion on the individual's Fourth Amendment interests"' 'against the countervailing governmental interests at stake. [Citation.] Our Fourth Amendment jurisprudence has long recognized that the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it. [Citation.] Because '[t]he test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application,' [citation] however, its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." (Graham v. Connor, (1989) 490 U.S. 386, at p. 396.)

"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.... With respect to a claim of excessive force, the same standard of reasonableness at the moment applies: 'Not every push or shove, even if it may later seem unnecessary in the peace of a judge's chambers,' [citation] violates the Fourth Amendment. The calculus of reasonableness must embody allowance for the fact that police officers 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, supra, 490 U.S. at pp. 396-397.)

“As in other Fourth Amendment contexts, however, the ‘reasonableness’ inquiry in an excessive force case is an objective one: the question is whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.... An officer’s evil intentions will not make a Fourth Amendment violation out of an objectively reasonable use of force; nor will an officer’s good intentions make an objectively unreasonable use of force constitutional.” (Graham, supra, 490 U.S. at p. 397.)

The phrases “reasonable force,” “excessive force,” or “unreasonable force” are used in CALCRIM (California’s standardized criminal jury instructions) and have not been found to be legal terms of art. They are common, everyday phrases that are readily understood by jurors and need not be explained here. The Graham case demonstrates how any use of force should be reviewed – starting with the peace officer’s authority.

Peace officers have rights by virtue of their need to enforce the laws that differ from the ordinary citizen. Some of these rights are codified in Penal Code §835a which states:

“Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance.

A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.”

In the instant case there are several different uses of force: the K-9, the Taser and the “hands-on” struggle. The “hands-on” struggle is exactly the type of force authorized by the Penal Code and approved by the Graham case. Under the circumstances known to the peace officers at the time of this incident, the use of the Taser and the K-9 were also reasonable. Santillan was being detained based on his reported behavior (by his step-father); he resisted lawful commands and tried to flee. The deputies, both individually and collectively, acted with minimal force to hold Santillan down and handcuff him. The multiple angles of BWC footage demonstrate that the deputies acted within their peace officer powers.

In California, basic standards for peace officers are set by the Peace Officer Standards and Training (POST) Commission. These standards are taught in the basic academy and are known as Learning Domains (LD); these standards are not laws or regulations, but they serve as a policy basis for reviewing an officer’s conduct. The POST standard that controls here is LD20, which defines “suspect actions correlated with use of force.” LD20 defines “active resistance” as “physically evasive movements to defeat an officer’s attempt at control, including bracing, tensing, running away, or verbally signaling an intention to avoid or prevent being taken into or retained in custody.”

LD20 further details the appropriate general response to active resistance to include "Control holds and techniques to control the subject and situation; Use of personal weapons in self-defense and to gain advantage over the subject; Use of devices to secure compliance and ultimately gain control of the situation." There is no question that Santillan was "actively resisting" throughout this incident; this by itself is a violation of the law. The law requires that a person submit to arrest:

If a person has knowledge, or by the exercise of reasonable care, should have knowledge, that he is being arrested by a peace officer, it is the duty of such person to refrain from using force or any weapon to resist such arrest. Penal Code § 834a

The statutory framework discussed above makes it clear that Santillan should not have resisted, but he did. Santillan's resistance does not mean that officers must let him go for fear of being sued or accused of being "mean" to a suspect. The law states that we as a society must give them the authority to overcome that resistance. As stated by another court:

"A state law battery claim is a counterpart to a federal claim of excessive use of force. In both, a plaintiff must prove that the peace officer's use of force was unreasonable. (Munoz, supra, 120 Cal. App. 4th at p. 1102, fn. 6.) [Footnote omitted. ] "Claims that police officers used excessive force in the course of an arrest, investigatory stop or other 'seizure' of a free citizen are analyzed under the reasonableness standard of the Fourth Amendment to the United States Constitution." {Id at p. 1102, citing Graham v. Connor (1989) 490 U. S. 386, 395 (Graham.) The question is whether a peace officer's actions were objectively reasonable based on the facts and circumstances confronting the peace officer. (Munoz, supra, 120 Cal. App. 4th at p. 1102.) The test is " 'highly deferential to the police officer's need to protect himself and others.' " (Ibid.)

" 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. [Citation.] [T]he question is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. [Citations.] " (Martinez v. County of Los Angeles (1996) 47 Cal. App. 4th 334, 343 (Martinez), quoting Graham, supra, 490 U. S. at pp. 396-397.) In calculating whether the amount of force was excessive, a trier of fact must recognize that peace officers are often forced to make split-second judgments, in tense circumstances, concerning the amount of force required. (Edson v. City of Anaheim (1998) 63 Cal. App. 4th 1269, 1273 (Edson).

" We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes "reasonable" action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure.' [Citation.]" (Martinez, supra, 47 Cal. App. 4th at p. 343.) Placing the burden of proof on the plaintiff to establish that an officer's use of force was unreasonable "gives the police appropriate maneuvering room in which to make such judgments free from the need to justify every action in a court of law. " (Edson, supra, 63 Cal. App. 4th at pp. 1273-1274.)

Where potential danger, emergency conditions, or other exigent circumstances exist, "[t]he Supreme Court's definition of reasonableness is ... "comparatively generous to the police. ..." ' [Citation.]" (Munoz, supra, 120 Cal. App. 4th at p. 1103.) " In effect,

"the Supreme Court intends to surround the police who make these on-the-spot choices in dangerous situations with a fairly wide zone of protection in close cases. ..."  
Brown v. Ransweiler, (2009) 171 Cal. App. 4th 516, 527-28.

Even if we were to follow the false assumption that the use of force was the cause of death, there are two Penal Code provisions that would still exonerate the deputies - Penal Code §195 and §196. Penal Code §196 states, in part:

“Homicide is justifiable when committed by public officers and those acting by their command in their aid and assistance, either \*\*\*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 in retaking felons who have been rescued or have escaped, or when necessarily committed in arresting persons charged with felony, and who are fleeing from justice or resisting such arrest.”

The deputies in this case were discharging a legal duty to detain a person thought to be a danger to themselves or to others. The deputies never used deadly force and only used the force necessary to overcome the resistance of Santillan. Lastly, §195 states, in part:

“Homicide is excusable in the following cases: 1. When committed by accident and misfortune, or in doing any other lawful act by lawful means, with usual and ordinary caution, and without any unlawful intent. \*\*\*”

Once again, it is clear all of the elements of §195 have been established. Therefore, for the sake of argument, even if Santillan’s death had been caused by the non-deadly use of force during the arrest process, the deputies would have been justified in their actions, the death would have been accidental and/or justified pursuant to Penal Code §§195 and §196.

### CONCLUSION

The evidence leads me to the conclusion that all of the involved deputies acted in a reasonable fashion and pursuant to a lawful duty. No individual deputy, nor the group as a whole, used excessive or unreasonable force. Each deputy was legally justified in his/her actions. This was an unfortunate medical problem for which no one in law enforcement is responsible. This office now views the matter as closed.

Very truly yours,

BIRGIT FLADAGER  
District Attorney



David P. Harris  
Assistant District Attorney