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PILING ON

Swarming unruly citizens and pressing them to the ground invites disaster

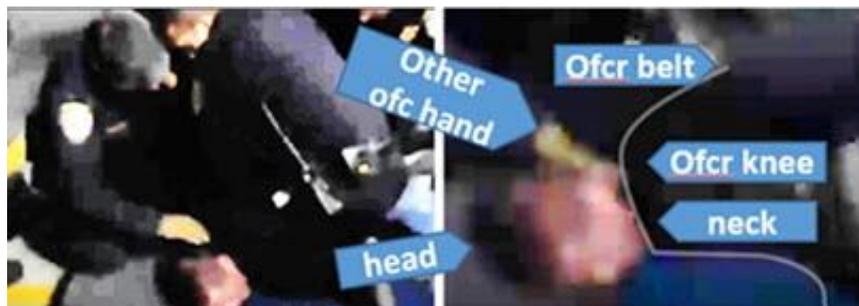


For Police Issues by Julius (Jay) Wachtel. On March 31, 2020, two months before the murder of George Floyd forever tarnished American policing, a resident of Southern California lost his life in an appallingly similar way.

During the early morning hours of March 31, 2020 a pair of California Highway Patrol officers [stopped Mr. Edward Bronstein](#), a thirty-eight year old Burbank man, on suspicion of drunk driving. He was detained and transported to a CHP station. On arrival, officers asked his consent for a blood draw. (That may have been due to previous DUI's. See below.) But Mr. Bronstein refused, so [they obtained a telephonic warrant](#) and summoned a nurse.

Seven CHP officers were involved. Five were hands-on. A sixth stood to the side, and a Sergeant videoed the encounter. (Click [here](#) for our condensed, captioned and backlit version, and [here](#) for the full-length CHP video). Officers placed Mr. Bronstein on his knees and tried to get him to change his mind. But Mr. Bronstein wouldn't, so they pressed him to the ground. Mr. Bronstein was instantly scared and "promised" he would comply. But an officer said "too late."

These images depict what happened next. About 1:25 min. into the CHP video, one



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officer is shown pressing down on Mr. Bronstein's neck area with his knee (we outlined its approximate shape). Less than a minute later (2:09 on the video) Mr. Bronstein begins screaming "I can't breathe." An officer replies "then stop yelling." The blood draw began about 2:50 mis. in. By 3:10 mis. Mr. Bronstein seemed unresponsive. But the procedure continued. At about 4:30 mis. the nurse checked for a pulse in various places, then tried to slap Mr. Bronstein awake. After nine minutes had passed the officers raised Mr. Bronstein's torso, and the nurse used a stethoscope to check for a heartbeat. About 13:30 mis. someone utters "heart attack". Active resuscitation measures don't visibly begin until nearly fifteen minutes into the encounter. That's about *twelve minutes* after Mr. Bronstein seemingly passed out.

["Violent and Vulnerable"](#) discussed the syndrome of "excited delirium," which the emergency medical community formerly applied to highly agitated persons, typically under the influence of drugs (see the American College of Emergency Physicians' 2009 ["White Paper on Excited Delirium Syndrome"](#)). When physically restrained, some cease breathing altogether or go into cardiac arrest. But the [EMS World](#) white paper that we originally linked is no longer online. It's been replaced by ["A New Lens on Excited Delirium."](#) According to the site editor, concern had developed that "excited delirium" had become "a catchall diagnosis that obscures other causes of death" and allows police to excuse the physical abuse of minorities (i.e., the George Floyd episode).

Still, agitated persons continued to perish. [A 2021 report](#) by the American College of Emergency Physicians (ACEP), offers a new, improved syndrome: "hyperactive delirium":

Hyperactive delirium with severe agitation, a presentation marked by disorientation and aggressive words and/or actions, is an acute life-threatening medical condition that demands emergency medical treatment...(pg. 2)

Fine. So was "hyperactive delirium" a factor in Mr. Bronstein's death? [ACEP's website](#) notes that (just like the bad, old "excited" delirium) forceful intervention can play a key role:

...Hyperactive delirium syndrome is a life-threatening constellation of symptoms manifested as a clinical syndrome. The combination of vital sign abnormalities, metabolic derangements, altered mental status/agitation, and potential physical trauma raises serious concerns for impending danger. Patients with this condition are at high risk of...secondary physical trauma that may result from physical restraint to allow for evaluation of the patient by emergency personnel.

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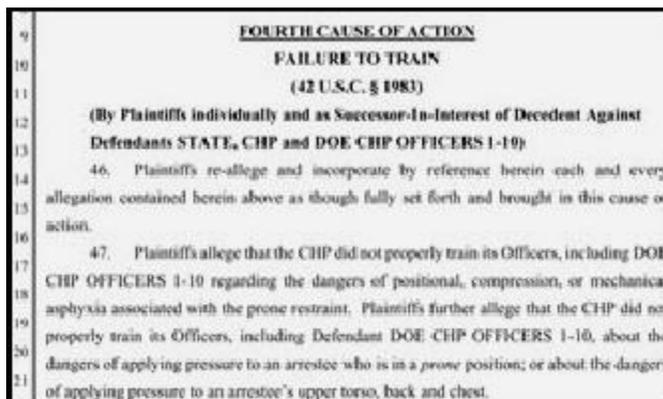
What's more, drugs make things worse. "Hyperactive delirium with severe agitation, as well as hyperadrenergic physiological states, commonly results from stimulant intoxication and may be caused solely by exposure to this class of drugs." (pg. 7)

For Mr. Bronstein, it was apparently "all of the above." According to the [L.A. County Coroner](#), the cause of death was "acute methamphetamine intoxication during restraint by law enforcement." A highly agitated man who was under the influence of a powerful, mood-altering drug had a gaggle of officers press on his chest. Given Mr. Bronstein's fragile condition – call it "hyperactive delirium" if you wish – that application of force likely interfered with his breathing and brought on cardiac arrest.

Leaving out any mention of "delirium", excited or otherwise, this causal chain forms the basis of [a Federal civil rights lawsuit](#) filed by Mr. Bronstein's family against the state, the CHP, and each of the officers (2:20-cv-11174-FMO-JEM). Here's a brief extract from its "Fourth Cause of Action, Failure to Train" (pg. 10):

Plaintiffs allege that the CHP did not properly train its Officers, including DOE CHP OFFICERS 1-10 regarding the dangers of positional, compression, or mechanical asphyxia associated with the prone restraint.

Plaintiffs further allege that the CHP did not properly train its Officers...about the dangers of applying pressure to an arrestee who is in a prone position; or about the dangers of applying pressure to an arrestee's upper torso, back and chest.



A recent filing indicates that a settlement is in sight, and a hearing to approve it is scheduled for October.

Full stop. It's not just civil litigation that the officers face. On March 28, 2023, just three days shy of the *three-year* mark, a new D.A., George Gascon, [charged the R.N. and the seven CHP officers](#) with violating [Penal Code section 192\(b\)](#), involuntary manslaughter, a felony, in this case "the commission of a lawful act which might produce death, in an unlawful manner, or without due caution and circumspection". Each officer was also charged with [section 149, a misdemeanor](#) that applies whenever an officer "under color of authority, without lawful necessity, assaults or beats any person." Here's an extract from the [D.A.'s online announcement](#):

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...Bronstein initially refused the blood draw, but then agreed to comply as officers pushed him to the ground...Six officers are accused of forcing a handcuffed Bronstein to the ground and pinning him down as Baghalian drew his blood. While pinned down, Bronstein repeatedly told officers he could not breathe. As the blood draw continued, Bronstein became unresponsive. He was kept facedown for approximately six more minutes...Approximately 10 minutes after he became unresponsive, the officers attempted CPR, but Bronstein never regained consciousness and was later pronounced dead.

Mr. Bronstein's encounter with the CHP happened before the Floyd episode, when the risks of pinning recalcitrant subjects to the ground were not widely recognized outside of the medical community. That, of course, has changed. [Commenting on the officers' prosecution](#), Acting CHP Commissioner Sean Duryee emphasized that training and field practices have been substantially upgraded:

Following this incident, CHP leadership updated agency policies to prevent officers from using techniques or transport methods that involve a substantial risk of positional asphyxia...The CHP has also conducted training for all uniformed employees to help them recognize individuals experiencing medical distress. The CHP is exploring alternatives to administering mandated chemical tests when people arrested on suspicion of driving under the influence refuse to submit to testing, as required by law.

Policing is an inherently fraught enterprise, and [getting citizens to voluntarily comply](#) can be tough. Mr. Bronstein might have been a particularly tough nut to crack. Our search of Los Angeles Superior Court case files revealed that a man with the same first and last name, and same birth year and month, had three DUI and three driving on a suspended license convictions between 2001-2012. (There were also convictions for battery on a peace officer and domestic violence.) Prior DUI's may be why CHP officers insisted on a blood draw, then telephoned a judge when Mr. Bronstein refused to submit voluntarily. But even when told that there was a court order, Mr. Bronstein said "no."

Police Issues doesn't hesitate to criticize cops when they do wrong. Our essay about the George Floyd episode, "[Punishment Isn't a Cop's Job](#)," was posted *nine days* after the lethal encounter. Try as we might, though, we can't summon that conviction here. True enough, a CHP officer's "too late" retort expressed considerable annoyance with Mr. Bronstein. Still, the officers observably tried to play nice, and a nurse was present throughout. In our view, there was an absence of the hostile tenor evident in, say, how ex-MPD cop Derek Chauvin treated George Floyd. So we're disturbed that charges are being levied so long after the fact, and by a new D.A., George Gascon, [a self-avowed](#)

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[progressivist](#) whose efforts to constrain his prosecutors' vigor have inspired [several recall attempts](#) and [caused considerable discord within his office](#). (Click [here](#) for the D.A.'s news release about the Bronstein episode.)



D.A. Gascon's emphasis on police accountability has led to the reopening of other old cases. Among those is the [recent filing of charges](#) against two Torrance, Calif. Police officers for the 2018 shooting death of a suspected car thief, an episode for which they had been formally cleared by the prior D.A., Jackie Lacey.

Ideological issues aside, an underlying dilemma remains. Forcefully restraining a combative person is highly problematic, and particularly so if pressure – perhaps even moderate pressure – is applied to one's chest. Forget L.A. Skip to present-day Virginia. Consider what happened to [Mr. Irvo Otieno](#). On March 3 Henrico County deputies arrested the deeply troubled man for burglary. An emergency mental health order landed him in the hospital. He then assaulted three deputies and wound up in jail.

Three days later deputies took Mr. Otieno to a state mental facility. Their prisoner proved combative, so they used pepper spray and shackled the man's hands and feet. And on arrival, the deputies literally "piled on." Here's Commonwealth Attorney



Ann Cabell Baskerville's reaction to the [video](#):

They're putting their back into it, leaning down. And this is from head to toe, from his braids at the top of his head, unfortunately, to his toes.

Mr. Otieno wound up on his stomach and reportedly remained under pressure for twelve minutes. He never regained consciousness.

State's Attorney Baskerville swung into action. Accusing the seven deputies and three hospital security officers of "smothering" Mr. Otieno to death, she promptly charged them with second-degree murder. As one would expect, [concerns have been raised](#) that's

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overly severe. However, in Virginia second-degree murder includes accidental killings that are caused by “[extreme recklessness](#)”. Perhaps the prosecutor is frustrated, as we are, that a full *three years* after the killing of George Floyd, some officers are still “piling on.”

Whether or not one subscribes to “hyperactive delirium,” it seems beyond question that forcefully restraining a disturbed person places them at risk. In the real world of policing, that’s often unavoidable. But taking an agitated someone to the ground and exerting pressure on their torso can disrupt breathing and circulation. Tasers and pepper spray can make things worse. For those whose bodily functions have been degraded by drug use or health issues, that can be more than enough to tip them into cardiac arrest. And unless *that’s* instantly recognized, resuscitation attempts may prove futile.

What to do? Combative persons should be placed on their knees to apply handcuffs or restraints. Agreed, that may not always work well in practice. It will also require retraining. But there are no perfect solutions. Even if side positioning is intended, “going to the mat” is an invitation to disaster. And the days of “piling on” are really, *really* over.