

NEW YORK STATE COMMISSION OF CORRECTION

In the Matter of the Death :
:
of Raul Pinet, an inmate of the :
Onondaga County Justice Center :
:

}
FINAL REPORT OF THE
NEW YORK STATE COMMISSION
OF CORRECTION

TO: Sheriff Kevin E. Walsh
Onondaga County Sheriff's Office
407 S. State Street
Syracuse, NY 13202

GREETINGS:

WHEREAS, the Medical Review Board has reported to the NYS Commission of Correction pursuant to Correction Law, section 47(1)(d), regarding the death of Raul Pinet who died on August 6, 2010 while an inmate in the custody of the Onondaga County Sheriff at the Onondaga County Justice Center, the Commission has determined that the following final report be issued.

FINDINGS:

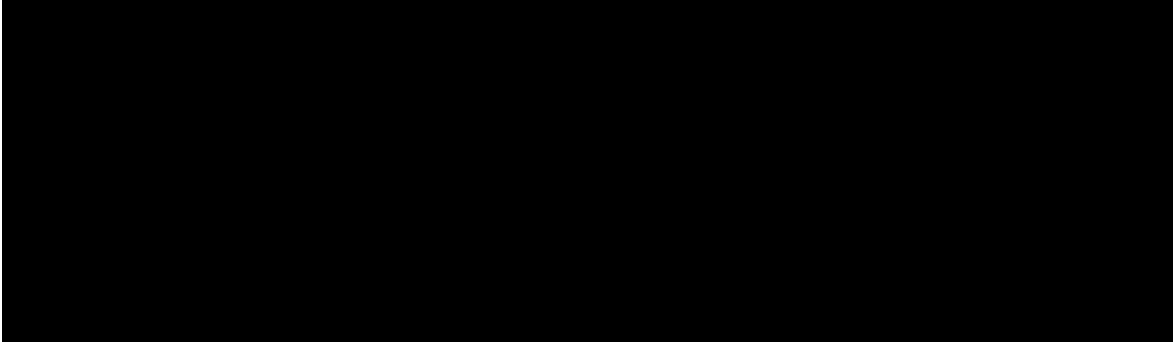
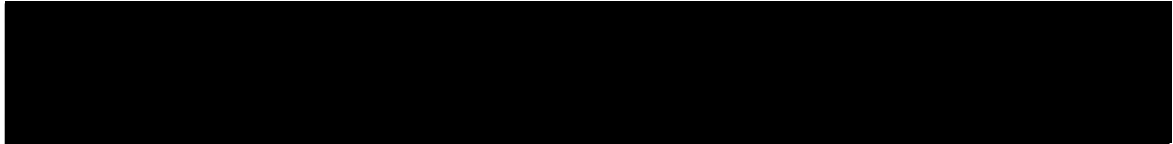
1. Raul Pinet was a 31 year old male who died from asphyxia during restraint on 8/6/10 while in the custody of the Onondaga County Sheriff at the Onondaga County Justice Center. His manner of death is homicide. On 8/6/10, neighbors called '911' at approximately 7:50 p.m. to request help for Pinet because he was wandering the neighborhood, and appeared to be agitated, paranoid, acting bizarrely and under the influence of drugs. Responding Syracuse Police brought him to the Onondaga County Justice Center where he became unresponsive while being restrained in the 'time out' room in the booking area at approximately 8:56 p.m. [REDACTED]

The Medical Review Board, after reviewing all of the records and evidence, including videography of the 'time out' room restraint episode, concluded that Pinet's death was due to: **Asphyxia during restraint. Homicide.** The Board rejected the conclusion that Pinet died from "excited delirium," a controversial diagnosis not recognized by the American Psychiatric Association and having no scientific basis of support. The Medical Review Board noted that videograph showed sheriff's deputies kneeling on Pinet's back and neck and that a 'spit mask' was improperly positioned on his face, conditions that interfered with his ability to breathe.

2. Raul Pinet was born in Boston, MA. He was married and had six (6) children from different relationships. Pinet obtained his GED while in prison. He worked as a sanitation worker but was injured in 2006 when he fell from a truck and became disabled. [REDACTED]

3. [REDACTED]

4. [REDACTED]

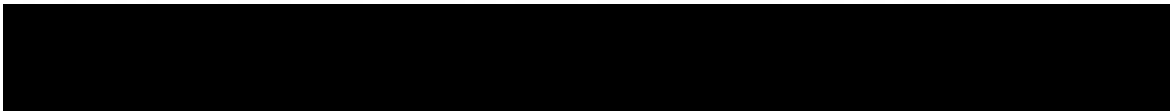
5. Pinet had no known mental health history.
6. Pinet's family had reportedly last seen him at home on Wednesday 8/4/10 and feared he had been out using cocaine. On Friday, 8/6/10 at approximately 7:50 p.m., Pinet approached a residence at 208 Merriman Avenue in Syracuse. Pinet told the resident at this address that he had been drinking and using drugs and needed to go to rehab. The resident called for an ambulance to respond.
7. 
8. 
9. At approximately 8:00 p.m., Pinet was again seen in the backyard of 309 Shonnard Street. Pinet came to the front of the house and told the residents he needed help. Pinet attempted to push past the residents to try to gain entry into the home. Pinet then ran off the porch and toward 305 Shonnard Street. The residents called 911 for the police to respond.
10. Just past 8:00 p.m., E.O., a resident at 305 Shonnard Street, heard someone knocking at her front porch door. E.O. walked out and saw Pinet who she recognized from the area. E.O. stated Pinet looked really scared and he was saying someone was trying to kill him. E.O. let Pinet in onto her porch and Pinet began saying he needed help and wanted to call the police. Pinet was reported to be acting frightened and panicky looking all around. He grabbed the phone from E.O. and began dialing random numbers trying to reach the police.
11. Pinet continued to behave bizarrely, saying people were trying to kill him. He was observed to be sweating profusely. E.O. found an opportunity to grab the phone back from Pinet and began dialing 911. Pinet then grabbed E.O.'s 7 year old son and tried to leave the residence with him. E.O. and another female resident began struggling with Pinet to get him to put the child down.
12. Syracuse Police had arrived at 309 Shonnard Street at approximately 8:07 p.m. to investigate a burglary complaint as called in by 911. Officers M.S. and J.H. were interviewing a witness when they heard a commotion coming from 305 Shonnard Street and proceeded there. Officers J.H. and M.S. arrived at 305 Shonnard Street and saw Pinet in the residence holding a child. The officers ordered Pinet to put the child down. They attempted to enter the residence but could not as the porch door was

locked. Finally one of E.O.'s children opened the door for the police officers.

13. Officers J.H. and M.S. told Pinet he was under arrest and attempted to take him into custody. Pinet began to struggle with the officers, resisting application of handcuffs. As Pinet was taken to the ground, he tried to grab at Officer M.S.'s gun belt. Pinet continued to struggle against the officers trying to restrain him. He continued to ignore verbal orders to stop resisting and thrashed violently back and forth. Additional officers from Syracuse Police arrived and Pinet was finally placed in handcuffs. Pinet was then carried off the porch and placed face down on the side walk. Pinet continued to fight violently, kicking at the officers, spitting, and shouting that he was high on crack cocaine. He kept attempting to reach into the waistband of his pants as if he was trying to retrieve a weapon.
14. Pinet stopped struggling and Officer M.S. was able to sit him up and search him for drugs or weapons. None were found on him. A police prisoner transport van was brought to the scene to take Pinet. Officers stood Pinet up on his feet and began walking him to the van. Pinet continued to shout. When asked by officers if he had taken any drugs, Pinet replied "just crack." Pinet began to pull away from the officers and began yelling "No I'm not going." Pinet began to struggle with the officers again and he was taken to the ground again. Additional officers responded to help control Pinet. Pinet was picked up and carried into the police transport van. He continued to thrash and kick at the officers trying to carry him. Pinet was partially in the van when he began to thrash his way out. Officers then had to enter the van and pull Pinet into it. The door to the van was finally secured. Syracuse Police departed the scene with Pinet to the Onondaga County Justice Center at approximately 8:26 p.m.
15. Syracuse Police arrived at the Justice Center at approximately 8:33 p.m. During transport to the Justice Center, the transport officer observed that Pinet was sweating heavily, yelling out things such as "I never had anything," "I never listen," and for God to make him a better person. He was also kicking the walls inside the van. Upon arrival at the Justice Center, Syracuse Police called the booking desk stating they had a violent prisoner they may need assistance with getting into the facility.
16. Deputy A.C. first received the information from Syracuse Police via the booking officer. Deputy A.C. contacted her supervisor, Sgt. R.S., via her radio. Sgt. R.S. and Deputy A.C. entered into the carport to assist the Syracuse Police Officers. Syracuse Police briefed the deputies that Pinet was highly uncooperative, resisted arrest, and took multiple officers to get him in the van. Officers also stated that Pinet may be under the influence of drugs and may have smoked "water" (cigarettes soaked in embalming fluid said to have an effect similar to PCP). No information as to the source of this idea was developed during the investigation. Sgt. R.S. and Deputy A.C. both went to the back of the transport van to speak with Pinet. They both observed that Pinet was sweating heavily, yelling, and bleeding from abrasions on his head and shoulder. Sgt. R.S. and Deputy A.C. both attempted to speak with Pinet. Pinet was yelling he needed help, that he didn't want to die, and that he needed a priest. Sgt. R.S. asked Pinet if he had been smoking "water." Pinet said he had but then recanted and said he hadn't. Sgt. R.S. asked Pinet if he used any other drugs. Pinet said he had used lots of drugs but denied smoking any "water."

17. Sgt. R.S. observed that Pinet would vacillate from being agitated to weeping, to frightened, and showing signs of paranoia. Pinet began crying and saying "I don't wanna die, I don't wanna die like this." Sgt. R.S. had Deputy A.C. contact Sgt. M.C. and Lt. J.B. of the Sheriff's Emergency Response Team (SERT) to come to the carport area.
18. Lt. J.B. and Sgt. M.C. arrived in the carport to assess the situation. Sgt. R.S. briefed Lt. J.B. that it took several officers to get Pinet in the transport van, that he was combative, and that he appeared to be extremely high on drugs. Lt. J.B. observed Pinet sitting inside the van, sweating profusely, speaking, but not making any sense. Pinet was observed to have abrasions to his left face area, arms, shoulders, and was covered in dirt. Pinet kept repeating that he did not want to be beaten anymore and that he did not want to die. Lt. J.B. assured Pinet he would receive help but needed him to come into booking cooperatively. Pinet inched his way out of the transport van. Deputy D.M. helped Lt. J.B. escort Pinet out of the van. While walking toward the booking vestibule, Pinet began to struggle again and pulled away from the officers. Lt. J.B., Sgt. M.C., Deputy D.M. and a Syracuse police officer took Pinet to the ground to restrain him. Sgt. R.S. requested additional SERT deputies to respond to the carport.
19. SERT deputies, including Deputies P.C., J.J., J.W., and Sgt. T.W., arrived and began applying Emergency Response Belts to Pinet's torso, waist, and leg areas. When Pinet began spitting, Lt. J.B. ordered Deputy D.B. to apply a mesh spit hood over Pinet. Pinet continued to yell and struggle against the officers in the carport. The decision was made by Lt. J.B. to have Pinet carried into booking and into the booking time out room.
20. Video footage from the facility recorded the movement of Pinet. In addition, a hand held video recording was made as is the case for all SERT movement.

The following descriptions and time signatures are derived from examination of the video records of the movement and prone restraint of Raul Pinet:

- 8:49 p.m. Pinet is carried by deputies with emergency restraining belts into booking and into the time out room.
- 8:50 p.m. Pinet is placed in the time out room face down. Deputies begin removing Pinet's clothes.
21. Sgt. R.S. advised Nurse S.S. that Pinet needed to be checked. Sgt. R.S. reported that she briefed the nurse on Pinet informing her that he was combative with the police, had some injuries, and was possibly under the influence of drugs. Nurse S.S. however denied being informed that Pinet was possibly under the influence of drugs.
22. 8:51:00 p.m. Nurse S.S. entered the time out room.
8:51:09 p.m. Nurse S.S. began a hands-on assessment of Pinet.
8:51:45 p.m. Nurse S.S. completed her hands-on assessment.
8:51:56 p.m. Nurse S.S. leaves the time out room.
23. Nurse S.S. stated she entered into the time out room to assess Pinet.
- 

[REDACTED]

Nurse S.S. did not adjust the mal-positioning of the 'spit mask' or order it removed.

24.

[REDACTED]

According to Onondaga Justice Center Policy CUS-017, Admissions, medical staff makes the determination if a detainee required immediate transport to the hospital. The lack of a thorough assessment by Nurse S.S. did not comport with the Justice Center policy and also violated 9 NYCRR §7010.2(c)(d), Health Services, which states:

3. Every inmate who at the time of admission appears to be physically incapacitated due to drug or alcohol intoxication shall be examined immediately by a physician.
 4. Every inmate who at the time of admission appears to be intoxicated by alcohol or drugs shall be subject to increased supervision as determined pursuant to section 7003.3(h) of this Title ...
25. 8:52 p.m. Pinet continues to struggle with deputies as they remove his clothing and restraint belts. He remains handcuffed and face down in time out room. It should be noted that the room itself is a secure cell. Examination of the video record indicates that the 'spit hood' worn by Pinet became displaced so that the non-mesh segment of the hood not readily permeable to air exchange covered Pinet's nose and mouth.
26. 8:53 p.m. Pinet can be heard yelling on SERT video tape "please, please."
27. 8:54 p.m. Pinet continues to struggle and yell.
28. 8:55 p.m. Pinet has the leg belt removed and the handcuffs removed. Pinet kicks one leg free. Deputy J.J. regains control of his leg and places Pinet in a "figure four restraint" position. During the 8:54 p.m. to 8:55 p.m. period, correction officers are viewed periodically kneeling on Pinet's neck and upper back over his lung cavity.
29. 8:55:45 p.m. Pinet stops moving and becomes silent.
30. 8:56:14 p.m. Sgt. M.C., Deputies P.C., J.W., and J.J. exit the room one by one. The room door is immediately secured. Pinet lays motionless, face down, with one arm still behind his back, uncuffed, and his right leg bent towards his left.
31. Lt. J.B., Sgt. R.S., Sgt. M.C. and other deputies remained outside the room observing Pinet. Pinet continued to lay in the same position motionless. Sgt. R.S. banged on the door and called out to Pinet to get

a response but got none. Sgt. R.S. stated he was concerned that Pinet was feigning unresponsiveness to get staff to re-enter the room and assault them.

32. Deputy A.C. suggested they try splashing cold water on Pinet to see if they get any response. Sgt. R.S. instructed Deputy A.C. to fill a spray bottle with water and bring it to her. Sgt. R.S. then attempted to spray water in on Pinet through the door hatch but it only came out as a mist. Deputy A.C. then adjusted the sprayer and then proceeded to squirt water on Pinet with no reaction.
33. Sgt. R.S. reported she still believed that Pinet was feigning unresponsiveness and requested that additional SERT deputies return to booking before re-entering the room. Deputy P.C. was in the nearby control room when he heard the request for SERT deputies to return to booking. Deputy P.C. returned to the time out room in booking. Staff were still standing outside the time out room, some saying Pinet was "faking." Deputy P.C. asked the control deputy to open the door and entered into the time out room.
34. 9:03:10 p.m. Deputy P.C. enters into the time out room and nudges Pinet's foot. Pinet does not respond. Deputy P.C. enters further, moves Pinet's leg with no response. Other deputies enter. Deputy P.C. applies handcuffs to Pinet.
35. 9:03:40 p.m. Pinet is rolled up onto his left side. The spit hood is removed.
36. 9:04:21 p.m. RN S.S. enters the room and assesses Pinet. RN S.S. finds no pulse or respirations and calls for a medical emergency and CPR to begin.
37. 9:05:15 p.m. Handcuffs are removed from Pinet.
38. [REDACTED]
39. [REDACTED]
40. [REDACTED]
41. [REDACTED]
42. [REDACTED]
43. [REDACTED]

Extrapolated to one hour earlier (time of death), this elevated temperature does not represent malignant hyperthermia or hyperpyrexia which theorists claim to be associated with spurious "excited delirium."

44. In response to this incident, the Onondaga Justice Center has implemented procedure and policy changes. Policy CUS-017 Admissions has been amended to include that all inmates shall be asked by staff if they have taken any street drugs or medications. All SERT staff have received additional training in excited delirium recognition, however, medical staff have not been included in the training as of this date. Since there is no scientific basis and no medical scientific demonstration of the pathophysiology of "excited delirium," these policy and procedural changes are unlikely to contribute to prevention of similar occurrences in future.

RECOMMENDATIONS:

TO THE OFFICE OF THE SHERIFF OF ONONDAGA COUNTY:

1. The Office of the Sheriff shall conduct a review of the responding supervisors and officers who, in violation of Minimum Standards, failed to obtain immediate medical attention for Pinet, who was observed to have an altered mental status, was sweating profusely, and who had admitted to drug use at admission to the facility, rather engaged in an extended prone restraint use of force in an area already contained and secure, which caused Pinet's death. Administrative action should be taken if this conduct is found to be in violation of agency policy and procedures.
2. The Office of the Sheriff shall conduct a review of the supervisors and officers who failed to properly supervise and obtain medical attention for Pinet after a use of force and allowed Pinet to remain unattended while unresponsive in a holding room for a period of over seven minutes. Administrative action should be taken if this conduct is found to be in violation of agency policy and procedures.
3. The Office of the Sheriff, in conjunction with its medical services provider, shall conduct a review of the professional conduct of the nurse who failed to conduct a thorough assessment of Pinet and who failed to comply with 9 NYCRR §7010.2(c)(d). Administrative action should be taken if this conduct is found to be in violation of agency policy and procedures. The Onondaga County Office of the Sheriff shall reiterate and reinforce policies and procedures to comply with 9 NYCRR §7010.2(c)(d).
4. The Office of the Sheriff shall implement policy changes and staff training regarding the risks and dangers of prone restraint and associated asphyxia.
5. The Office of the Sheriff shall conduct a joint policy and procedure review with City of Syracuse Police Department on the delivery of unarraigned prisoners to the Justice Center, specifically when prisoners shall be transported to the hospital due to their acute medical state.

TO THE CHIEF OF POLICE FOR THE SYRACUSE CITY POLICE DEPARTMENT:

The Department shall conduct a joint policy and procedure review with the Onondaga County Sheriff's Department, on the delivery of unarraigned prisoners to the Justice Center, specifically when prisoners shall be transported to the hospital due to their acute medical state.

FINAL REPORT OF RAUL PINET

PAGE 9

WITNESS, HONORABLE PHYLLIS HARRISON-ROSS, M.D., Commissioner, NYS Commission of Correction, Alfred E. Smith State Office Building, 80 South Swan Street, 12th Floor, in the City of Albany, New York 12210 this 17th day of April, 2012.


Phyllis Harrison-Ross, M.D.
Commissioner

PHR:mj
10-M-113
12/11

cc: Emre Umar, President, Correctional
Medical Care, Inc.
chief Frank Fowler, Syracuse Police Dept.