

Eric P. Daigle, Esquire
Daigle Law Group, LLC
Phone: (860) 270-0060
Email: Eric.Daigle@DaigleLawGroup.com
960 South Main Street, Plantsville, CT 06479

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Jeffrey William Hall
Chief Deputy District Attorney
Salt Lake County District Attorney's Office
35 East 500 South
Salt Lake City, Utah 84111

**Re: *Salt Lake City Police Department
Officers Todd Goodsell, Dalton Hatch, Joshua Hoyle, Seyedsherwin Mansourbeigi
Use of Force Incident dated January 11, 2022 re: Megan Mohn***

1. My name is Eric P. Daigle, Esquire. I am an active consultant and expert in law enforcement operations. My experience focuses on officer use of force and First Amendment protected activity, including use of force training and investigations, supervision of use of force incidents, and the investigation and review of deadly force incidents throughout the country.
2. Since 1989, I have been actively involved in police practices and law enforcement operations on the municipal and state level, and during my time served as military law enforcement.
 - a. From 1987 to 1995, I was assigned to the United States Army Reserves serving as a Military Police Officer. I was activated and served in Operation Desert Shield/Operation Desert Storm with the 344th Military Police Company.
 - b. From 1992 to 2002, I was a member of the Connecticut State Police, spending many years as a detective assigned to investigative units. My experience included leading investigations, processing crime scenes for the collection of forensic evidence, and preparing cases for prosecution. I am currently assigned as a reserve officer and maintain my Connecticut Police certification.
 - c. For the past 20 years, I have been a certified instructor on a wide range of law enforcement subjects and have conducted training at multiple police academies. I provide recruit and in-service law enforcement training in the areas of Laws of Arrest, Search and Seizure, Use of Force, Force Investigations, Tactical Operations, First Amendment protected activity, and Civil Liability.
3. I have a Juris Doctor degree from Quinnipiac University School of Law. I am admitted to practice law in Connecticut State and Federal Court, Second Circuit, and the United States Supreme Court. From 2002-2010, I was a member of the Halloran & Sage, LLP law firm, practicing in the Police and Municipal Liability Group.

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4. In 2010, after eight years of litigation experience, I formed the Daigle Law Group, LLC, which specializes in Law Enforcement, Corrections and Security Management Operations Consultant services
5. As the principle of Daigle Law Group, LLC, I work as a consultant to various law enforcement agencies and serve as an expert witness in litigation matters, specializing in law enforcement pattern and practice analysis. While serving as a Police Practices Consultant to multiple departments throughout the country, I revise and develop department policies; provide daily operational legal advice; investigate and evaluate use of force and internal affairs operations; incorporate accreditation standards; and develop effective training and employment operational procedures. I currently instruct and educate law enforcement personnel, prosecutors, attorneys, and other students in the areas of protest response, First Amendment activity, use of force, shooting incident reconstruction, crime scene reconstruction, officer-involved critical incident investigations, and in-custody death investigations.
6. In my position as an instructor, I participate in law enforcement seminars throughout the United States where I have instructed officers, commanders, agency administrators, and the attorneys representing these agencies on a number of liability and investigation related subjects. My instruction focuses on Monell liability protection for departments, including topics such as developing effective policies, conducting effective training, and ensuring proper supervisory oversight. I have hosted and participated in seminars focusing on First Amendment activity, use of force legal standards, including investigating and reconstructing force, electronic control weapon usage, and responses to officer-involved shootings. I have served as a member of the Independent Monitoring Team for Oakland CA and Niagara Falls NY. I also worked as a police practices consultant for law enforcement agencies who are under investigation or under a Consent Decree by the Department of Justice Civil Rights Litigation Section.
7. I am General Counsel for FBI-Law Enforcement Executive Development Association (FBI-LEEDA) and a member of their instructor cadre teaching Supervisory Liability. I am the General Counsel for the National Internal Affairs Investigators Association (NIAIA) and instruct at their conference yearly on conducting force investigations. I have served as the Chairman for the IACP Legal Officer Section and currently serve on the IACP Civil Rights Committee. I have served on the Board of Directors for Americans for Effective Law Enforcement (AELE). I am also the Legal Section Chairman for the National Tactical Officers Association (NTOA) and a member of the National Association for Civilian Oversight of Law Enforcement (NACOLE) where I hold the Certified Practitioner of Oversight from NACOLE.
8. My areas of expertise in policing include but are not limited to: First Amendment activity, police use of force; pursuits; police administration; training; police operations; criminal investigations; interviews and interrogations; civil rights violations and investigations; internal/administrative investigations; criminal investigations; police discipline; citizen complaints; and police policies and procedures.

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9. I have reviewed the following materials provided to date in connection with the above-referenced incident:

- a. Timelines
 - 22-62675 Timeline
 - Events or Timeline
 - PP Timeline
 - SLC OICI WVPD #wV22-62675
 - Timeline 1
 - Timeline 2
 - TL 3
 - Vertical Chart 1
- b. Photographs of scene/evidence/Mohn - DSC_0012-0096
- c. Body Worn Camera Footage (6 min excerpts)
 - Mansourbeigi (presentation excerpt)
 - Hatch
 - LSM
 - LS
- d. Body Worn Camera video (full video)
 - Axon_Body_3_Video_2022-01-11_0336_X6030735M (53:13)
 - Axon_Body_3_Video_2022-01-11_0341_X6031921Y (29:28)
 - Axon_Body_3_Video_2022-01-11_0343_X6031867X (25:01)
 - Axon_Body_3_Video_2022-01-11_0346_X6030495S (23:55)
 - Axon_Body_3_Video_2022-01-11_0407_X6030347R (2:39)
 - Axon_Body_3_Video_2022-01-11_0412_X6030495S (34:09)
 - Axon_Body_3_Video_2022-01-11_0430_X6031921Y (8:25)
 - Axon_Body_3_Video_2022-01-11_0440_X6031921Y (5:02)
 - Axon_Body_3_Video_2022-01-11_0647_X6030121S (4:17)
 - Axon_Body_3_Video_2022-01-11_0450_X6031921Y (1:56)
- e. Surveillance videos – Marathon Petroleum
- f. Salt Lake City Police Department Audit Logs for Axon Body Worn Cameras
- g. Salt Lake City Police Department Audit Logs for DSC_0012-0096
- h. West Valley City Police Department Audit Logs for Axon Body Worn Cameras
- i. Transcripts for Axon Body Worn Camera videos:
 - Axon_Body_3_Video_2022-01-11_0336_X6030735M
 - Axon_Body_3_Video_2022-01-11_0341_X6031921Y
 - Axon_Body_3_Video_2022-01-11_0343_X6031867X
 - Axon_Body_3_Video_2022-01-11_0346_X6030495S
 - Axon_Body_3_Video_2022-01-11_0407_X6030347R
 - Axon_Body_3_Video_2022-01-11_0412_X6030495S
 - Axon_Body_3_Video_2022-01-11_0430_X6031921Y
 - Axon_Body_3_Video_2022-01-11_0440_X6031921Y
 - Axon_Body_3_Video_2022-01-11_0647_X6030121S
 - Axon_Body_3_Video_2022-01-11_0450_X6031921Y

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- j. Previous Contact Police Reports
 - List of Reports
 - SL21-115962-DV
 - SL21-128536-DV
 - SL21-186837-Robbery
 - UPolice 21-1680
- k. Medical Examiner Report, Case No R202200909
- l. Mohn Kansas CH
- m. Mohn Medical Records – Salt Lake Regional Medical Center – Medical Record # SL30021168
- n. Search Warrant No. 2486231 and supporting documents

10. Bibliography:

- Horton v. California, 496 U.S. 128, 138, 110 S. Ct. 2301, 110 L. Ed. 2d 112 (1990). “*The United States Supreme Court has endorsed an objective standard, noting that “evenhanded law enforcement is best achieved by the application of objective standards of conduct, rather than standards that depend upon the subjective state of mind of the officer.”* see Whren v. United States, 517 U.S. 806, 813, 116 S. Ct. 1769, 135 L. Ed. 2d 89 (1996) (“[s]ubjective intentions play no role in ordinary, probable-cause, Fourth Amendment analysis”); Ornelas v. United States, 517 U.S. 690, 696, 116 S. Ct. 1657, 134 L. Ed. 2d 911 (1996) (probable cause based upon evaluation of “facts, viewed from the standpoint of an objectively reasonable police officer”);
- Maryland v. Macon, 472 U.S. 463, 470-71, 105 S. Ct. 2778, 86 L. Ed. 2d 370 (1985) (“[w]hether a Fourth Amendment violation has occurred ‘turns on an *objective assessment of the officer’s actions in light of the facts and circumstances confronting him at the time...and not on the officer’s actual state of mind at the time the challenged action was taken...*’
- Graham v. Connor, 490 US 388 (1989), “the degree of force used in effecting an arrest, investigatory stop, or other seizure is evaluated by using an objective, reasonable police officer standard. The reasonableness of each particular use of force will be judged from the perspective of a reasonable officer on the scene, based on the facts and circumstances known to and confronting the officer at the time. In determining the appropriate level of force to be used, officers shall evaluate each situation in light of the unique facts and circumstances of each case. Those factors include, but are not limited to, the seriousness of the crime or suspected offense; the level of threat or resistance presented by the subject; the risk or apparent attempt by the subject to escape; and whether the subject was posing an imminent threat to officers or others.”
- City of Canton v. Harris, 485 U.S. 378, 388-89, 109 S.Ct. 1197 (1989). Municipal liability could be established if the City’s failure to train was so deficient that it displayed a deliberate indifference to its citizens’ constitutional rights. There are only limited circumstances in which the failure to train imposes liability on a municipality under §1983. The alleged deficiency in the training must be “closely related” to the alleged injury. To establish that the failure to train or supervise constituted deliberate indifference, the plaintiff must prove three elements: (1) policymakers knew “to a moral certainty” that the employees will

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confront a given situation; (2) the situation presents the employee with a difficult choice of the sort that training and supervision will make less difficult or that there is a history of employees mishandling the situation;" and (3) "the wrong choice by the city employee will frequently cause the deprivation of the citizens' constitutional rights."

- Monell v. New York City Department of Social Services, 436 U.S. 658, 690-91, (1978). The liability of a municipality does not attach for the actions of the municipality's employees on a *respondeat superior* basis. A municipality may be held liable only for its own deprivation of civil rights. To prevail on a § 1983 claim under Monell, the plaintiff must plead and prove: (1) the existence of an official policy or custom of such long standing as to have the force of law; (2) pursuant to which one or more municipal employees violated the plaintiff's civil rights.
- Board of County Commissioners of Bryan County v. Brown, 520 U.S. 397, (1997) It is not enough to identify conduct properly attributable to the municipality. The plaintiff must also demonstrate that, through its *deliberate* conduct, the municipality was the 'moving force' behind the injury alleged.
- Horton v. Pobjecky, et al, 883 F.3d 941 (7 Cir 2018), "Judges view facts from afar, long after the gun smoke clears, and might take months or longer to decide cases that forced police officers to make split-second decisions in life-or-death situations with limited information. We as judges have minutes, hours, days, weeks, even months to analyze, scrutinize and ponder whether an officer's actions were 'reasonable,' whereas an officer in the line of duty all too frequently has only that split-second to make the crucial decision. The events here unfolded in heart-pounding real time, with lives on the line. (The Officer) lacked our luxury of pausing, rewinding, and playing the videos over and over."
- Salt Lake City Police Department Policies:
 - 300 – Use of Force
 - 301 – Handcuffing and Restraints
 - 431 – Crisis Intervention Incidents
 - 432 – Medical Aid Response

INTRODUCTION

11. This report is based upon the materials provided to date. I recognize that there may be additional documentation as the case progresses. In the event that additional material is produced, I shall be prepared to supplement this report.
12. The below listed opinions were formulated based on my experience, training, and knowledge of police practices, as well as my continued research and national work with law enforcement. In addition, these opinions are based on my education in the law enforcement field; and the standard of care recognized by law enforcement organizations and officials throughout the United States as the custom and practice for the administration, management, and supervision of police agencies and personnel. Furthermore, the opinions are based on my knowledge of law enforcement training and my knowledge of the written standards and materials generally available for training and guiding law enforcement officers in their everyday assignments. The opinion provided below is an analysis of the Salt Lake City Police Department Officers¹ ("SLCPD Officers") use of force

¹ Todd Goodsell, Dalton Hatch, Joshua Hoyle, Seyedsherwin Mansourbeigi

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incident that occurred on January 11, 2022, near 900 North 400 West (Marathon Fuel Refinery) on the east side of the intersection.

13. There is a large body of knowledge and literature regarding the practices and standards that modern, reasonably managed and administered law enforcement agencies should follow and apply to their operations. These generally accepted practices have developed over time to encourage and assist law enforcement agencies to deliver law enforcement services to communities that are professional, reasonable, effective, and constitutionally and legally sound. These generally accepted practices are in response to reported cases of police misconduct and liability, and a desire by law enforcement to create a system to ensure that police conduct remains within acceptable legal and constitutional bounds. I am familiar with this body of knowledge and, through my continuous training and audits, assist law enforcement agencies in meeting the requirement to provide reasonable law enforcement response to field incidents, and for continued improvement.
14. The terminology I use in this Expert Report is not meant to encroach upon the authority of any court or the final determination of the jury. I use these terms in my training of law enforcement officers and law enforcement supervisors when instructing on Laws of Arrest, Search & Seizure, Use of Force, and Civil Liability. These references stem from a continued review of case law and law enforcement policies, which guide a reasonable police officer or a reasonable police supervisor in the performance of his/her duties. These terms include arrest, investigation, jurisdiction, probable cause, and reasonable suspicion.
15. Attorney Jeffrey William Hall requested that I review the records and materials associated with this incident, including the above-listed materials, to determine if the procedures followed and actions and/or inactions taken by the SLCPD Officers on January 11, 2022, near 900 North 400 West (Marathon Fuel Refinery) on the east side of the intersection were reasonable and consistent with legal and general industry standards for use of force. Pursuant to my engagement by Attorney Hall, I conducted a review and analysis of the events in the above reference matter, utilizing the materials that have been provided to us.

SUMMARY OF EVENTS - GENERAL:

16. On January 11, 2022, at 3:13 a.m., Megan Mohn (“Mohn”) was observed at the Marathon Petroleum property located at 474 West 900 North in Salt Lake City. (WVCPD General Offense Report, page 10) The facility surveillance video – “North East Exit Gate” date and timestamped 01/11/2022 at 3:21 a.m. – shows Ms. Mohn walk up to the gate holding a large piece of metal rebar in her hands and stand to the left of the open gate as trucks are exiting. Ms. Mohn is seen entering several steps in through the gate but quickly exits when presumably she sees an individual walk between two trucks. Ms. Mohn is then seen walking away from the Gate and out of the screen. (REF – Pole 01 TLR N.E. Gate video)
17. SLCPD Officer Josh Hoyle (“Hoyle”) was working a part time shift at 900 North 400 West (Marathon Fuel Refinery) and was patrolling the property fence line for Marathon when he received a call from the Security Guard (Allied Security) via the radio, who informed him a female was

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trespassing into a controlled area, running into traffic in the intersection, acting erratically, and wielding two sticks. (Officer Hoyle Narrative – General Offense Report)

18. Officer Hoyle located Ms. Mohn on the east side of the intersection yelling and wielding two (2) four-foot pieces of rebar. Officer Hoyle activated his emergency lights, exited his patrol vehicle, and commanded Ms. Mohn to drop the sticks, and she complied. Officer Hoyle attempted to get Ms. Mohn's name, but she would not tell him. (Officer Hoyle Narrative – General Offense Report)
19. Officer Hoyle reported that Ms. Mohn was "marching erratically around the intersection" and he commanded her to sit down. Ms. Mohn stated she would not sit down as she didn't want to end up "dead in the Jordan River." Ms. Mohn began to walk briskly away from Officer Hoyle, and he commanded her to "sit the fuck down." As Ms. Mohn was non-compliant, Officer Hoyle grabbed her and tried to place her in handcuffs, but she began resisting arrest. Ms. Mohn started screaming "Help Me" and stated that the "two brothers were after her." Officer Hoyle smelled a strong odor of alcohol on Ms. Mohn's breath. Officer Hoyle was able to finally handcuff Ms. Mohn and told her to sit down. (Officer Hoyle Narrative – General Offense Report - SL 2022-6065)
20. Officer Hoyle notified dispatch that he had a female under arrest. At that time, Ms. Mohn was still actively resisting Officer Hoyle's attempts to control her and continued to scream. Officer Hoyle again told Ms. Mohn to sit down but she refused so he "assisted her onto her rear on the grass." (Officer Hoyle Narrative – General Offense Report - SL 2022-6065)
21. Officer Mansourbeigi (0336_X6030735) arrived on scene to assist Officer Hoyle. Officer Hatch arrived third (0341_X6031921) and Officer Goodsell arrived fourth (0341_X6031921Y). (Officer Hoyle Narrative – General Offense Report, SL 2022-6065)
22. Marathon Security Guard S [REDACTED] R [REDACTED] observed Officer Hoyle's initial interaction with Ms. Mohn from his security vehicle. Mr. R [REDACTED]'s statement of his observations of the incident corresponds with Officer Hoyle's narrative report. (See hand-written statement in SL22-6065 Report, p. 35).
23. (Observations from Body Worn Camera footage) Ms. Mohn was in a seated position on the ground with her hands handcuffed behind her back while Officers Hoyle and Mansourbeigi attempted to obtain her name. During this initial interaction, Ms. Mohn was screaming for help and stating, "they are going to kill me" and asking the officers to call the police. The Officers responded, "we are the police." Officer Mansourbeigi attempted to remove Ms. Mohn's backpack by undoing the straps. At this time Ms. Mohn started aggressively struggling with the officers and kicking out at them. As a result, the officers turned Ms. Mohn onto her stomach and held her in a prone position while attempting to gain control of her, but Ms. Mohn continued to yell, kick and struggle against the officers. To control Ms. Mohn in this position, one officer placed his knee on her right side/hip area, one officer held her legs, and the other officer held her right shoulder with his right hand. (Axon_Body_3_Video_2022-01-11_0336_X6030735M, 0:06:02) Officer Goodsell then arrived on scene to assist the other officers. Body worn camera footage shows "officers only applying pressure to Ms. Mohn's neck or mid-back above her lungs. Megan was still pushing the officers up and off

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of her while she was in the prone position." (WVCPD General Offense Report (Agency Assist), GO# 2022-62675, p. 11)

24. Ms. Mohn continued to kick at and struggle with the officers. One officer suggested utilizing restraints so that she could not kick them. Officer Hoyle stated he would get the leg restraints and went to the vehicle to retrieve them. (Axon_Body_3_Video_2022-01-11_0336_X6030735M @ 0:06:52). At this time, Ms. Mohn was heard mumbling (0336_X6030735M @ 0:06:59). While waiting for the restraints, Ms. Mohn's legs were held crossed and bent up towards her body so that she could not kick. Officer Hoyle returned from his vehicle with the leg restraints, and they were placed on Ms. Mohn. At this time, Ms. Mohn stopped struggling or speaking/mumbling. As soon as the leg restraints were applied, one officer instructed the other officers to move Ms. Mohn into a "recovery position," and the officers rolled her over on to her side. (0336_X6030735M @ 7:59)
25. After placing Ms. Mohn in a recovery position, the officers begin to perform a medical evaluation and question Ms. Mohn as to whether she has "taken anything" but she is not responsive. The officers determined that a medical response was needed and contacted dispatch to request "medical" to the scene. The officer is heard stating to dispatch, "can we get medical for a 45-year-old female, not conscious, breathing, not alert." One officer performed a sternum rub and stated, "Her pulse is strong but she's not responsive to pain." The evaluating officer determined that Ms. Mohn's pupils were not reactive to light. He then contacted dispatch and stated, "Can we have medical expedite. Breathing is slow, she's non-responsive to pain, pupils are not reactive to light." The officers decided to try Narcan on the chance that her condition was due to an opioid overdose. They continued to do a sternum rub and loudly stated, "wake up." But Ms. Mohn was non-responsive. The evaluating officer stated, "her pulse is strong in the carotid side, but now I'm not seeing her breathes coming. The officers continued to medically evaluate Ms. Mohn and turn her from recovery position to her back. The officers remove the handcuffs from Ms. Mohn and check her pulse. Officer Goodsell was able to locate a pulse, but saw no chest rise, and moved her back to the recovery position. As soon as they determined the pulse had been lost, they again attempted to rouse Ms. Mohn with sternum rubs and loudly telling her to "wake up." Officer Goodsell found a radial pulse but stated, "It's barely there. It's in and out." Once they lost the pulse, the officer stated, "I've got nothing. I think we should start" and began CPR with chest compressions. Officer Goodsell continued CPR until Salt Lake City Paramedics arrived on scene and took over. (Axon Body 3 X6031867X)
26. Officer Goodsell's statement provides:

I was coming from the area of 700 S State St. Upon my arrival both officers had a female subject in custody, on the ground, on the south east corner of the dispatched address. As I approached, Officer Hoyle asked me to provide assistance restraining the female subject on the ground while he retrieved leg restraints. It was explained to me she had been kicking officers. I placed my right shin on her left forearm, and got almost no reaction. I found this unusual, typically this has a certain amount of pain associated with it and is an effective way to gain compliance. I suggested the subject be placed into the "recovery position."

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Once the subject was moved into the recovery position, I could see the subject's breath exiting her nose and mouth due to the temperature (weather.com reports it as feels like 19 degrees). However, the subject's eyes were closed, and she was not moving. I performed a sternum rub, which is a form of pain stimulus to illicit a reaction or response in unconscious people. I would get no reaction. I opened the subject's eyes and immediately noticed her pupil size was enormous. I shined my flashlight into them and got no reaction.

It was at this time I could no longer see the breath exiting her mouth and nose and checked for a pulse. I could feel a strong carotid pulse at first, but could feel it weakening. I again attempted a sternum rub with no reaction. I checked for a radial pulse and could not locate one. I switched back to the subject's carotid artery, and could no longer detect a pulse.

I made the decision to straighten the subject out, and begin chest compressions (CPR). As I began compressions, I could hear a gurgling sound coming from the subject's chest and throat area, and she would remain unresponsive. Gold Cross was arriving at this time, and began to insert an OPA (oral airway) as CPR continued. SLCFD arrived on scene and would take over all medical care.

27. Gold Cross ambulance arrived on scene and intubated Ms. Mohn on scene and transported her to Salt Lake City Regional Medical Center, where she arrived unresponsive. (WVCPD General Offense Report (Agency Assist), GO# 2022-62675, p. 11; Salt Lake Regional Medical Center, Emergency Department records, Medical Record # SL30021168, p. 1 of 6) Mr. Mohn remained at the medical center until her death on January 30, 2022.
28. Dr. Jason G. Lozano, Assistant Medical Examiner, Office of the Medical Examiner Report of Examination dated 02/10/2022, stated it was his opinion that Ms. Mohn “died as a result of an anoxic brain injury due to cardiac arrest due to probable methamphetamine in the setting of an altercation involving physical restraint.” (page 2) His Report of Examination also indicated that there was no evidence of acute injury. (page 3) Dr. Lozano’s Opinion section, Case No. R202200909, dated 07/28/22, provided the following:

Reportedly, the decedent was exhibiting erratic and violent behavior when she was subdued by law enforcement officers. Initially, she was seated and handcuffed with her hands behind her back but when she began to struggle, she was held down in the prone position by several law enforcement officers. She became unresponsive and resuscitative efforts were begun which culminated in transport to a local hospital where she was diagnosed with an anoxic brain injury due to a cardiac arrest. Admission urine toxicology screen was positive for amphetamine.

Although methamphetamine intoxication alone can result in cardiac arrest, the temporal relationship of the cardiac arrest occurring during an altercation involving physical restraint cannot be ignored. Demand

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ischemia of the myocardium due to physical exertion during the altercation may have precipitated the cardiac arrest. Also, the history of being held down in the prone position raises concern for an asphyxial component. Death due to asphyxia may leave no evidence at autopsy. The manner of death is homicide.

29. On July 28, 2022, Lt. Wykoff contacted Detective J. Nelson of the West Valley City Police Department (WVCPD), Homicide Unit, regarding the “Officer Involved Critical Incident (OICI)” involving the Salt Lake City Police Department and Ms. Mohn on January 11, 2022. Detective Nelson initiated the OICI protocol. The WVCPD investigation produced the following timeline for this incident beginning at the time Officer Mansourbeigi arrived, and Ms. Mohn began to kick at the officers and was secured on the ground:

3:36:27 a.m.	Officer Mansourbeigi arrives
3:39:--	Megan starts to kick at the officers
3:41:08	Megan is moved onto her side
3:41:55	Megan is moved to a prone position
3:43:--	Restraints placed on Ms. Mohn’s feet
3:43:37	Megan is moved to a recovery position
3:43:43	Agonal breathing observed
3:44:30	Sternum rub by officer
3:44:45	Megan stops moving
3:44:50	Breath visible in cold air
3:45	Medical requested to expedite
3:47	Handcuffs removed and Megan is rolled onto her back
3:47:08	Narcan given
3:47:50	Carotid pulse is strong
3:48	No breath observed
3:50:38	Medical arrives
3:52	Officer Goodsell begin medical
4:07:33	Gold Cross begins transport to Salt Lake Regional Hospital

CLS OICI WVPD #WV22-62675 Timeline (Vertical Chart 1)

OPINION

30. It is my *opinion to a reasonable degree of professional certainty* that the Salt Lake City Police Department Officers’ actions, including the amount of force used against Ms. Mohn while taking her into custody, were reasonable or necessary considering the totality of the circumstances they faced on January 11, 2022. The Salt Lake City Police Department Officers’ actions were consistent with the general industry standards for a law enforcement officer using force. Specifically, the Salt Lake City Police Department Officers followed Salt Lake City Police Department policies and industry standards in the way in which they responded to the incident involving Ms. Mohn on January 11, 2022. This opinion is based upon my specialized training, experience, background, and education, as well as my continued research, writing, training, policy development, and the auditing

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of law enforcement agencies throughout the United States. The evidence reviewed in preparation of this report would lead any reasonable law enforcement officer to conclude that the Salt Lake City Police Department Officers utilize their experience, proper training, and operational common sense during their response to Ms. Mohn's actions in their attempts to take Ms. Mohn into custody at or near 900 North 400 West (Marathon Fuel Refinery) on January 11, 2022.

31. It is my opinion to a *reasonable degree of professional certainty* that the Salt Lake City Police Department Officers used a reasonable amount of force, consistent with policy and procedure, and industry standards, in securing and detaining Ms. Mohn. Pursuant to Salt Lake City Police Department Use of Force Policy, Section 300.3.2, Use of Force to Effect an Arrest, "*An officer may use reasonable force to effect arrest, to prevent escape or to overcome resistance. An officer who makes or attempts to make an arrest need not retreat or desist from their efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed the aggressor or lose their right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance (Utah Code 77-7-7).*" Policy 300.3.2 complies with law enforcement police practices as well as applicable legal standards. As provided above, an officer's decision to utilize force, and the amount of force that they reasonably may use, is based on the legal standards set forth in the 1989 Supreme Court case *Graham v. Connor*, which finds that "the degree of force used in effecting an arrest, investigatory stop, or other seizure is evaluated by using an objective, reasonable police officer standard. The reasonableness of each particular use of force will be judged from the perspective of a reasonable officer on the scene, based on the facts and circumstances known to and confronting the officer at the time. In determining the appropriate level of force to be used, officers shall evaluate each situation in light of the unique facts and circumstances of each case. Those factors include, but are not limited to, the seriousness of the crime or suspected offense; the level of threat or resistance presented by the subject; the risk or apparent attempt by the subject to escape; and whether the subject was posing an imminent threat to officers or others."
32. It is my *opinion to a reasonable degree of professional certainty* that Salt Lake City Police Department Officers used a reasonable amount of force consistent with Salt Lake City Police Department policy and law enforcement industry standards when they placed Ms. Mohn first on her side on the ground and then into a prone position to try to gain control of her and limit her ability to kick at them. Such a maneuver is consistent with industry standards and training for gaining control of a person in an arrest situation. The maneuver allows officers to quickly control a suspect's movements and take them into custody without further incident. Utilizing this method of control possibly avoids the need for additional uses of force. When the officers first held Ms. Mohn on the ground on her side, she continued to kick out at them. The officers then rolled her over onto her stomach in a prone position to prevent any further attempts to kick at them and allow them to take her into custody.
33. There is no clear bright line between active and passive resistance. Whether or not a subject's actions are active or passive is a sliding scale of perception. During every enforcement incident involving resistance, there is a continuous evaluation on the part of the officer as to whether a subject's actions are active or passive. Actions that start out as passive can become active and then return again to passive within a matter of mere seconds. "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

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later seem unnecessary in the peace of a judge's chambers,' . . . , 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 v. Connor, 490 U.S. 386, 396-97 (1989). Pursuant to Salt Lake City Police Department Use of Force Policy, Section 300.4, Resistance and Control, *"Force situations are dynamic and require an officer to continually assess the subject's actions to ensure a proper response. Officers will transition to differing degrees or types of force as appropriate."* This policy section defines the various levels of resistance, including: (B) *Passive Resistance – the subject, with little or no overt physical actions, refused to obey the officer's instructions;* (C) *Active Resistance – the subject physically resists or physically displays their refusal to comply with the officers order(s) without being assaultive;* (D) *Assaultive – the subject attempts or threatens, by an act or gesture, to use force, or uses force against someone else, or leads the officer on reasonable grounds to believe they have the ability to carry out their intentions. For example, this subject may kick or punch, or display threatening body language showing the intention to do so."* At the time the Officers held Ms. Mohn on her side on the ground and then turned her onto her stomach in a prone position, Ms. Mohn's level of resistance was "assaultive." The Officers responded to Ms. Mohn's continued assaultive behavior by securing her to the ground with their hands and a knee on her hip, and then by placing restraints on her feet to prohibit her continued kicking and assaultive behavior. Accordingly, based on the facts and circumstances surrounding this incident, The Salt Lake City Police Department Officers use of force against Ms. Mohn on January 11, 2022 was within Salt Lake City Police Department policy and law enforcement industry standards.

34. It is my *opinion to a reasonable degree of professional certainty* that Salt Lake City Police Department Officers' use of handcuffs and leg restraints to prevent Ms. Mohn from kicking them and continuing her assaultive behavior, and take her into custody, is consistent with Salt Lake City Police Department policy and law enforcement industry standards. The Salt Lake City Police Department Use of Force Policy, Section 301.4, Application of Handcuffs or Plastic Cuffs, provides in part: *"Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety."* The Use of Force Policy, Section 301.6, Application of Leg Restraint Devices, provides in part: *"Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest or transportation. Only restraint devices approved by the department shall be used. In determining whether to use the leg restraint, officers should consider: (a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a suspect; (b) Whether it is reasonably necessary to protect the suspect from his/her own actions (e.g. hitting his/her head against the interior of the patrol unit, running away from the arresting officer while handcuffed, kicking at objects or officers) . . ."* Accordingly, based on the facts and circumstances surrounding this incident, the Salt Lake City Police Department Officers use of handcuffs and leg restraints against Ms. Mohn on January 11, 2022 was within Salt Lake City Police Department policy and law enforcement industry standards.
35. The Salt Lake City Police Department Use of Force Policy, Section 300.0, Medical Consideration, provides in part: *"Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical*

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distress after an encounter shall be continuously monitored until they can be medically assessed. Absent exigent circumstances or direction from a medical service provider, individuals should not be placed on their stomachs for an extended, as this could impair their ability to breathe.” In the current matter, Ms. Mohn continued to struggle with the officers throughout the majority of the encounter, including attempts to kick them. As soon as the officers were able to secure Ms. Mohn in the leg restraints, they rolled her off her stomach and onto her side into a recovery position. Once Ms. Mohn was placed in a recovery position, she was “continuously monitored” and evaluated by the officers. Once it became clear that Ms. Mohn was rendered unconscious and exhibiting signs of physical distress, the officers called for medical assistance. The records revealed that approximately 50 seconds passed between the officers’ securing Ms. Mohn in leg restraints and when they called for a medical response to the scene. While awaiting the arrival of the ambulance, the officers remained active in their assessment of Ms. Mohn and attempts to revive her. When Ms. Mohn continued to be unresponsive, the officers requested an expedited medical response and began CPR. Officer Goodsell continued CPR until Gold Gross medical personnel took over Ms. Mohn’s medical care. Accordingly, based on the facts and circumstances surrounding this incident, The Salt Lake City Police Department Officers medical care provided to Ms. Mohn on January 11, 2022 was within Salt Lake City Police Department policy and law enforcement industry standards.

36. The Salt Lake City Police Department Use of Force Policy, Section 300.0, also provides in part: *“Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called “excited delirium”) or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.”* When officers arrive on the scene of an incident and are faced with an agitated individual, proper procedure does not require officers to immediately request medical assistance. Officers first conduct an assessment period of the subject to determine the cause of the subject’s actions, which could include drugs and/or alcohol and mental health issues. While Ms. Mohn was agitated when Officers Hoyle and Mansourbeigi attempted to bring her into custody, her primary agitative actions were verbal and did not necessarily fall under those described in this section. At that initial assessment, Ms. Mohn was not struggling with officers. It wasn’t until other officers arrived on scene and attempted to remove her backpack that Ms. Mohn became extremely agitated, assaultive to the officers, and struggled against their attempts to control her. At that time, the officers’ primary objective was to get Ms. Mohn under control to stop her assaultive behavior and take her into custody. Once Ms. Mohn was under control, “as soon as it was practical” the officers requested medical assistance. Furthermore, ambulance personnel cannot come on scene to evaluate and treat a subject until the scene is secured and it is safe to do so. Once Ms. Mohn was secured, and the officers realized her condition had changed, they immediately requested medical assistance. As Ms. Mohn’s condition worsened, the officers requested an expedited medical response and began CPR efforts until ambulance personnel arrived and took over her care.
37. The Salt Lake City Police Department provides annual training to its officers on use of force and other relevant subject matters. A review of the provided officer training records revealed that within six months of this incident, all involved officers received training on the following subjects: De-escalation, Mental Health/Crisis Intervention, and Arrest Control Techniques. While we do not have

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the content of the training received, it is clear that the Department is diligent in ensuring its officers receive regular training to enable them to effectively respond to encounters such as those experienced during the January 11, 2022 incident with Ms. Mohn.

40. In sum, the evidence in this case supports that Salt Lake City Police Department Officers' use of force against Ms. Mohn while taking her into custody on January 11, 2022, and the manner in which they responded to her actions, was reasonable or necessary considering the totality of the circumstances, as well as consistent with policy and procedure, and industry standards.
41. I have testified as an expert at trial as a police consultant prior to this case.

This report is signed under penalty of perjury on this 21st day of March 2024, in Plantsville, Connecticut.



Eric P. Daigle, Esquire

² 883 F.3d 941 (7 Cir 2018)