

Videos Surface of a Death in Custody the LAPD Didn't Want Released

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by Topher Sanders ProPublica, Aug. 18, 2016, 8 a.m.

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Early on the afternoon of June 4, 2012, Vachel Howard was handcuffed to a bench inside the Los Angeles Police Department's 77th Street Station Jail. He was 56 years old, and had been taken into custody for driving while intoxicated. The grandfather of seven had been strip-searched, and his shirt still hung open. Howard told the officers present that he suffered from schizophrenia. Police suspected he was high on cocaine.

Less than an hour later, Howard was pronounced dead at Good Samaritan Hospital, just miles from the jail. He had been released from the handcuffs, but later subdued by half a dozen officers after he became, by their testimony, "violent and combative." A coroner eventually listed three contributing causes of death: cocaine intoxication, heart disease, and a chokehold employed by one of the officers.

Two years of litigation followed before, in October of 2015, the city of Los Angeles agreed to pay Howard's family \$2.85 million to settle a wrongful death claim.

The publishing of the videos detailing Vachel Howard's death inside a Los Angeles police jail involved months of reporting and a lot of thought. [Read more.](#)

The legal fight included dozens of depositions and competing medical opinions and claims of responsibility, all of them publicly filed in federal court in Los Angeles. What never became public, however, were 30 minutes of video showing Howard's death inside the 77th Street Station Jail — recordings of a sequence of events that had enraged a family and cost Los Angeles taxpayers nearly \$3 million. The [tapes](#) — recorded by [two fixed cameras](#) in the jail — had been filed with the judge in the case, S. James Otero, but when ProPublica requested the footage, Otero's clerk said he was unsure if the judge still had it, and that the judge's practice was not to make such material available to the news media. The police department denied a request for any video and the city attorney's office said it didn't have the footage.

ProPublica has now obtained copies of the tapes, and is publishing them [in the interest of establishing a more complete public record](#) of a controversial and costly death. The videos offer compelling evidence of how Howard died and how police and medical personnel at the jail responded to Howard's needs in the aftermath of an ultimately deadly jailhouse struggle.

The videos capture Howard in an agitated state on the station house bench. They show the officers shooting him with a Taser while simultaneously tackling him to the ground. For four minutes, six officers are either on top of or surrounding Howard, handcuffing his hands and feet. One officer is atop him, with a knee in his back. Another, at least briefly, can be seen with his arm around Howard's neck and shoulders. Officers and medical personnel slowly come to realize Howard is in distress. Four different people perform CPR over nine minutes. Finally, emergency medical personnel arrive and work on Howard for another eight minutes. Howard is then wheeled to an ambulance and police tape is used to cordon off the station house floor.

ProPublica contacted Howard's daughter and her lawyer. Tushana Howard said her father had struggled with drugs for years, but that he [did not deserve to die that night in the jail](#). V. James DeSimone, Tushana Howard's lawyer, was more blunt.

"Mr. Howard posed no threat whatsoever," said DeSimone. "He was down on the ground, six officers on top of him, no guns in the nearby vicinity executing a chokehold where there was no threat to the officers or to anybody else.

It's out of policy, it's unlawful, and in this case it's murder."

Officials with the police department and the city attorney's office would not comment. Neither agency admitted to wrongdoing as part of the settlement. The officer accused of using the chokehold, Juan Romero, was suspended for 22 days. Prosecutors decided not to pursue a case against Romero. In court filings, the police said Howard had tried to bite Romero and [defended the officer's actions](#).

"Given what were indisputably tense and rapidly evolving circumstances, Officer Romero's decision to apply and upper body hold on the decedent was justified," the filing said.

The five-member board that reviewed the fatal encounter between Howard and the police was established in the 1920s. Known as the Board of Police Commissioners, it sets policy for the department and recommends discipline of officers. On April 16, 2013, it reviewed the Howard case and subsequently issued an [18-page summary of its findings](#). Its detailed analysis noted that some things might have been handled differently — the decision to remove the handcuffs from Howard among them — but determined that, as a matter of policy, only Romero's chokehold amounted to a violation.

Video recordings have played a central role in heightening the nation's attention on deadly interactions between the police and the public. They have surfaced in Chicago and New York, North Charleston, S.C., and Cleveland. Some of the videos have served as grim vindication for black communities whose allegations of police misconduct are often met with skepticism, and whose calls for the punishment of offending officers often go unsatisfied. For their part, the police have argued the disputed episodes are isolated, and some officials have even claimed that the making and sharing of videos have hurt law enforcement's efforts to fight crime.

Video images such as those involving Howard's encounter with the LAPD have rarely been seen by Californians. Since the late 1970s, California law has specifically authorized police agencies to keep material involving real or alleged police misconduct secret from the general public. But the question of what police owe the public has been given fresh context as the LAPD moves to become the largest police department in the country to routinely outfit its officers with body cameras. The department so far has said it has no plans to make footage readily available to the public, even after deadly incidents.

The events that led to Howard's death began with a traffic stop. Officers had seen Howard's car swerving, crossing a center divide and nearly striking a car in oncoming traffic.

According to his family, Howard had made money restoring old cars and working with his father's lawn service. He had a history of drug use, but his daughter, Tushana, said she had years ago drawn a line with him. If he was to have a relationship with her children, she said, he would have to kick the drugs. Tushana said her father appeared to make good on the deal.

"He said his family was more important, and he wanted to be there for my kids," she said.

Tushana Howard said she was surprised to learn her father had cocaine in his system the day he died. Still, she made clear, his relapse hardly warranted his death.

"Someone's past doesn't determine who they are in the present and people shouldn't assume the worst," she said.



Left to right: Brigette Francis, Howard's longtime girlfriend, Vachel Howard, and Howard's daughter, Tushana Howard. (Image courtesy the Howard family)

Howard's initial arrest, however, did not go smoothly, involving a car chase and a tense standoff with officers, one of whom wound up drawing his weapon. Howard had driven off after the initial stop, and according to the commission's report, officers worried that he had reached under the driver's side seat for a gun when he again came to a halt. Howard eventually got out of the car and was handcuffed. The two arresting officers noted Howard was sweating profusely, that his speech was repetitive, and that he seemed paranoid, but there was no further drama in the patrol car as they transported him for evaluation and booking.

At the jail, Howard was strip-searched, during which an officer said Howard described himself as a paranoid schizophrenic and indicated that he had not recently been taking his prescribed medication. On one video — there is no accompanying audio for either tape — Howard and several officers can be seen returning to the jail lobby after the search. Howard appears to have been told by an officer to sit on a bench. He sits down and is handcuffed to the bench. He appears agitated and moves constantly while on the bench, turning from left to right and gesturing at officers.

Howard sits on the bench for about 90 seconds before an officer begins to unshackle him. At that point, another officer, Maryann Bunag, enters the camera's view and un-holsters her stun gun. Howard, who still appears to be talking to officers, is escorted out of the camera's view. Court records state that Howard was being taken to see a nurse in the dispensary. Howard and the officers are off camera for about 90 seconds.

The report by the board of commissioners said officers claimed Howard became uncooperative and refused to be assessed by a nurse. He was, the officers said, verbally abusive, and had advanced toward the nurse, prompting her to scream. One officer described Howard, 5-foot-8, 247 pounds, as having been foaming at the mouth during the earlier strip search.

What followed was an extended wrestling match, one that spilled back into the camera's view. Four officers can be seen grabbing at Howard's waist and legs. A Taser was employed five times, according to the commission's report. The officers said Howard was unfazed, often swearing and once removing the Taser probes from his body. The officers reported that at least twice they themselves were exposed to the Taser's electrical charge.

Once Howard is on the ground, a fifth and sixth officer join the fracas. It is then that Romero alleges Howard tried to bite him. The officers told the commission they feared for their lives.

It is difficult to clearly see Romero in the video. But the commission summed up his actions:

“Detention Officer A placed his right arm around the subject’s neck, with his right bicep pressed into the right side of the subject’s neck, and his right forearm pressed into the left side of the subject’s neck. Detention Officer A cupped his left hand over his right wrist, and applied downward pressure with his bodyweight as the subject tried to push off the floor with his right hand.”

Romero said he applied the hold for only five seconds. He said Howard did not lose consciousness, and that he let go of Howard’s neck once another officer got on top of Howard and put a knee into his back.

Officers eventually handcuff Howard and bind his feet. Officer Richard Fox, 6-foot–3, 230 pounds, then puts his knee into Howard’s back and keeps it there for about a minute in order to maintain control, and because, he said in a deposition, he was utterly exhausted.

Howard is visibly motionless. One officer uses his feet to move Howard’s feet, but there is no visible response from Howard. About 40 seconds later, a nurse, Irene Rowe, responds to calls from officers and peers over Howard. She walks away to retrieve her stethoscope.

While Rowe is retrieving her stethoscope, officers can be seen laughing and smiling. It is unclear what prompts the chuckling or what is said. When Rowe returns about 50 seconds later she appears to have a hard time assessing Howard because he is lying on his side or stomach. The officers then roll Howard over on his back.

Another 20 seconds pass. Rowe couldn’t hear Howard’s heart, she testified. He wasn’t breathing. Fox makes a 911 call on the radio for an ambulance.

Rowe then begins her first compressions on Howard’s chest, nearly 4 minutes after he was first visibly motionless. The resuscitation effort is interrupted momentarily to allow officers to roll Howard on his side so they could undo his handcuffs and foot restraints. Medical staff and officers, including Romero, spend the next nine minutes compressing Howard’s chest until paramedics arrive. He was never revived. The coroner found hemorrhages and fractured cartilage in Howard’s neck.

Howard, who was affectionately called Big Duck by friends and family because of the way he walked, was laid to rest on June 16, 2012 in Inglewood, California. A number of restored late-model vehicles and their owners were present in tribute at Howard’s funeral. His family filed their lawsuit in March of 2013, asserting that Howard was the victim of abusive treatment and unnecessary use of deadly force in the form of a chokehold.

Across the months of legal sparring, lawyers for the department and the city cited Howard’s obesity, health history and state of delirium as critical to his death. One officer described Howard as super human, akin to the cartoon character the Hulk.

The family said through its lawyer that it had no knowledge of any mental health history for Howard. They blamed the chokehold, and argued that the officers and nurses failed to render aid to Howard in a timely fashion.

“They’re noticeably laughing on the video when they’ve essentially just killed a man and he’s lying at their feet,” said DeSimone, the lawyer for Howard’s daughter, of one moment in the episode.

The LAPD declined requests by ProPublica to speak with the officers involved.

The Board of Commissioners that reviewed the incident included two former U.S. Attorneys, including one who had investigated the infamous Rodney King beating, as well as a civil rights leader and law school dean. Its report offers a detailed chronology, from the traffic stop through Howard’s departure for the hospital from the jail. The board notes that the officers initially failed to broadcast a required alert during the chase, but determined that the circumstances made that understandable. It noted that re-handcuffing Howard after he had been freed from the jail bench “would have been tactically prudent,” but did not amount to a policy violation. It faulted an officer for how she holstered her Taser, but found its repeated use to have been reasonable.

Only Romero was sanctioned in any way. The board noted Howard was on the ground in a controlled position with five officers on top of him and two others monitoring. It said Howard's attempt to bite Romero did not equate to a deadly threat and did not require the chokehold.

"Given the totality of the circumstances," the board wrote, "the BOPC found that a detention officer with similar training and experience as detention officer a, while faced with similar circumstances, would not reasonably believe that the subject's actions presented an imminent threat of serious bodily injury or death. The BOPC found detention officer a's use of lethal force to be out of policy."

The penalty was a suspension of 22 days. Romero was soon back on the job.

Earlier this year, California State Sen. Mark Leno put forward a bill that would have given the public more access to police disciplinary records and videos. This was Leno's second attempt to change the state's laws pertaining to police misconduct. But Leno's bill didn't so much as make it out of committee.

Police officers do important and dangerous work critical to a civil society, and that work is based on trust between law enforcement and the communities they serve, said Leno.

"But the lack of transparency and accountability does not serve the establishment of trust," he said. "We're now seeing throughout the country, due to a lack of transparency and an inability for the public to access important information, that that trust is seriously frayed."

A member of the board that suspended Romero after Howard's death told the Los Angeles Times last month that the LAPD's policy on police videos needed to be revisited. The board member said he and his colleagues would look into how other cities are handling police videos.

For Tushana Howard, the lack of transparency by the authorities can wind up diminishing those whose lives have been lost or damaged.

"It sort of says that we don't matter because we don't have the badge backing us," she said. "They matter more than we do. It's more important for them to go home to their families instead of the people they come in contact with to return to their families as well."