KEN PAXTON
ATTORNEY GENERAL of TEXAS

# CUSTODIAL DEATH REPORT

## Agency Information

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|---|---|---|---|
| CDR Number: | 22-217-CJ | Version Type: | AMENDED |
| Report Date: | 12/22/2022 5:18 AM | Status: | Submitted |

### Agency/Facility Information

| | | | |
|---|---|---|---|
| Agency Name: | Medina County Sheriff's Office | Agency Address: | 801 Avenue Y |
| Agency City: | Hondo | Agency State: | TX |
| Agency Zip: | 78861 | | |

### Director Information

| | | | |
|---|---|---|---|
| Director Salutation: | Sheriff | Director First Name: | Randy |
| Director Middle Name: | | | |
| Director Last Name: | Brown | | |
| Reporter Name: | Daniel McMillon | Reporter Email: | daniel.mcmillon@dps.texas.gov |

## Decedent Information

### Identity of Deceased

First Name: David

Middle Name: Lee

Last Name: Tumey

Suffix:

Date of Birth: 12/29/1967 Sex: Male

Race: Anglo or White

Age At Time Of Death: 54

### Date/Time of Custody (arrest, incarceration) (mm/dd/yyyy hh:mm AM/PM):

Date/Time of Custody or Incident: 2/10/2022 7:05 PM

### Date/Time of Death (mm/dd/yyyy hh:mm AM/PM):

Death Date and Time: 2/13/2022 8:35 PM

## Manner / Cause of Death

### Has a medical examiner or coroner conducted an evaluation to determine a cause of death?

Medical Examiner/Coroner Evaluation?: Yes, results are available

### What was the manner of death? (select only one)

Manner of Death: Accidental

## Medical Cause of Death:

Medical Cause of Death:

Complications of methamphetamine intoxication

## Had the decedent been receiving treatment for the medical condition that caused the death after admission to your jail's jurisdiction?

Medical Treatment: No

## If death was an accident, homicide or suicide, who caused the death?

Who caused the death?: Decedent

## If a weapon caused the death, what type of weapon caused the death? (Hold CTRL to select all that apply)

Type of weapon that caused death?: Not Applicable

## Was the cause of death the result of a pre-existing medical condition or did the decedent develop the condition after admission?

Pre existing medical condition?: Not Applicable; cause of death was accidental injury, intoxication, suicide or homicide

## If death was an accident, homicide or suicide, what was the means of death?

Means of Death: Drug overdose

# Location / Custody Information

### Where did the event causing the death occur?

| | | | |
|---|---|---|---|
| Street Address: | 801 Avenue Y | City: | Hondo |
| County: | Medina | Zip: | 78861 |

### What location category best describes where the event causing the death occurred?

| | |
|---|---|
| Location Category: | Law Enforcement Facility |

### What type of custody/facility was the Decedent in at the time of death:

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|---|---|
| Type of Custody: | County Jail |

### Specific type of custody/facility:

| Specific Type of Custody/Facility: |
|---|
| Jail - detox cell |

### What was the time and date of the deceased's entry into the law enforcement facility where the death occurred (mm/dd/yyyy hh:mm AM/PM):

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|---|---|
| Entry Date Time: | 2/10/2022 7:39 AM |

### Where did the death occur?

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| Death Location: | Law enforcement facility/booking center |

## General Information

### Did any other law enforcement agencies respond to calls for service related to this incident?

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|---|---|
| Other Agencies Respond?: | No |

## What were the most serious offense(s) with which the deceased was (or would have been) charged with at the time of death?

Offense 1:

Injury to Elderly-Bodily Injury (SJF)

Offense 2:

Possession of Marijuana Under 2oz (MB)

Offense 3:

| | |
|---|---|
| Were the Charges:: | Not filed at time of death |

## What were the types of charges or reason for contact? (Hold CTRL to select all that apply)

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|---|---|
| Type of Offense: | Violent Crime Against Persons; Alcohol / drug offense |

## At any time during the incident and/or entry into the law enforcement facility, did the decedent display or use a weapon?

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| Decedent display/use of weapons: | No |

## At any time during the incident and/or entry into the law enforcement facility, did the decedent:

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|---|---|
| Attempt to Injure Others?: | No |

## At any time during the incident and/or entry into the law enforcement facility, did the decedent:

| | | | |
|---|---|---|---|
| Appear intoxicated (alcohol or drugs): | Yes | Make suicidal statements?: | No |
| Exhibit any mental health problems?: | Yes | Exhibit any medical problems?: | No |

### At any time during the incident and/or entry into the law enforcement facility, did the decedent:

| | | | |
|---|---|---|---|
| Barricade self or initiate standoff?: | No | Resist being handcuffed or arrested?: | No |
| Physically attempt/assault officer(s): | No | Gain possession of officer's weapon: | No |
| Verbally threaten other(s) including law: | No | Escape or attempt to escape/flee custody: | No |
| Attempt gain possession officer's weapon: | No | | |

### Was the deceased under restraint in the time leading up to the death or the events causing the death?

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|---|---|
| Under Restraint: | No |

## Summary of Incident

### Summary of How the Death Occurred: (max. 30,000 characters)

Summary:

Medina County Deputy Preston Moebius arrested David Tumey (W/M, DOB: 12-29-1967) on 02-10-2022 for Injury to the Elderly and Possession of Marijuana less than two (2) ounces and booked him into the Medina County Jail. Deputy Moebius indicated that Tumey was intoxicated, so jail staff placed Tumey alone in the violent holding cell so he could detox.

Medina County Jail staff conducted twenty (20) minute observation checks while Tumey remained in custody.

On 02-13-2022 at approximately 8:00 pm, Sergeant Antonio Morales was performing inmate observations when he found Tumey unresponsive in the cell. Sergeant Morales entered Tumey's cell and began performing CPR. Sergeant Morales ordered that EMS to be contacted to assist with medical treatment. EMS arrived and took over CPR. EMS determined that Tumey was dead and stopped CPR. Jail staff secured the cell for the pursuing investigation.

Medina County Chief Deputy Gilbert Rodriguez contacted me, Texas Ranger Daniel McMillon, and requested I conduct a custodial death investigation. I arrived at the jail at approximately 9:22 pm. I photographed Tumey and the cell. I observed that Tumey was lying face up with his head positioned towards the cell door. Tumey was naked with four (4) defibrillator patches on his torso. Tumey's face appeared very red, and his hands were clenched. I did not see any obvious signs of trauma other than some minor abrasions to Tumey's knees.

Medina County Justice of the Peace Judge Clyde "Bubba" Howse arrived and pronounced Tumey dead at 8:35 pm. Judge Howse ordered an autopsy conducted at Central Texas Autopsy by Doctor Susan Dana.

On 02-13-2022, Medina County had three (3) corrections officers working when Tumey was found dead, Sergeant Antonio Morales, Officer Jessica Zaragoza, and Officer Nichole Lutz. I interviewed each officer separately, beginning with Sergeant Morales.

Sergeant Morales stated that he supervised the night shift from 6:00 pm to 6:00 am. Sergeant Morales stated that he and his officers began their shift with an inmate "head check" or count. Sergeant Morales said that Tumey was alive and responsive during the head check. Sergeant Morales said that Officer Zaragoza was responsible for conducting inmate observations and did all checks until he relieved her around 8:00 pm. Sergeant Morales informed me that Officer Lutz was working in the control room. Sergeant Morales told me that he discovered Tumey unresponsive during his first round of checks.

Sergeant Morales stated that he looked in the cell and saw Tumey lying face down. Sergeant Morales continued that he could not determine if Tumey was asleep, so he tried to elicit a response from Tumey by knocking on the door. Tumey did not respond, so he entered the cell and began CPR.

Officer Zaragoza stated that she was working from 6:00 pm to 6:00 am on 02-13-2022. Officer Zaragoza said she was responsible for performing inmate checks until Sergeant Morales took over at approximately 8:00 pm. Officer Zaragoza stated that she was required to check on Tumey every twenty (20) minutes. According to the violent cell observation log, Officer Zaragoza checked Tumey approximately every twenty (20) minutes from 6:00 pm to 7:40 pm.

Officer Zaragoza noted that Tumey was lying down when she performed her checks. I asked Officer Zaragoza how she determined if Tumey was alive and okay during her checks. Officer Zaragoza stated that she looked to see if Tumey was moving or asleep. Office Zaragoza stated that if Tumey was sleeping, she looked for the rise and fall of Tumey's chest. Officer Zaragoza indicated that Tumey was alive during each cell check.

Officer Lutz stated that she was assigned to work in the control room on 02-13-2022. Officer Lutz said that Tumey's cell was equipped with a camera that recorded if it could detect movement. Officer Lutz stated that at approximately 8:00 pm, Sergeant Morales entered Tumey's cell and found Tumey unresponsive. Sergeant Morales instructed her to contact EMS while he began CPR. I asked Officer Lutz if she had entered Tumey's cell. Officer Lutz stated that she remained in the control room to allow EMS access to the jail.

On 02-14-2022, I obtained the surveillance footage from inside and outside Tumey's cell. Tumey was housed alone in the violent cell. The camera inside the violent cell only records when it can detect movement, so the footage often skips time due to no motion detected. The footage from inside Tumey's cell shows that Tumey was alive lying on the floor until approximately 5:35 pm on 02-13-2022. The video then skips to 7:54 pm when Sergeant Morales enters Tumey's cell and starts CPR.

I observed the footage from outside Tumey's cell. The camera outside Tumey's cell records continually. The footage shows that officers were performing their inmate checks as stated. An officer would stop at Tumey's cell approximately every twenty (20) minutes, look inside the cell from the window, and then note Tumey's condition on the cell observation sheet. No one entered Tumey's cell before he was discovered unresponsive, and Tumey did not appear to harm himself.

On 02-17-2022, I attended Tumey's autopsy performed by Dr. Dana. Dr. Dana did not discover any apparent cause of death. Tumey did not display any physical signs of abuse or trauma. As of this date, the autopsy report is pending toxicology results.