 STATESMAN INVESTIGATES DEATHS IN POLICE CUSTODY

COPS RARELY FAULTED

In past decade in Texas, 289 people died in custody. Only 3 cases led to charges.

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LONG-AWAITED SETTLEMENT: Maria Escamilla holds a photo of her son, Rafael Solis Sr., with Solis' sons Rafael Jr. (left) and Esteban. Rafael Solis Sr. died in 2009, three days after being booked into the Webb County Jail for allegedly failing to pay child support. The family filed suit in 2011; in April, shortly before the case was to go to trial, Webb County and the Solis family settled for $1 million. DEBORAH CANNON / AMERICAN-STATESMAN

A QUESTION OF RESTRAINT

The American-Statesman has spent the past six months investigating how Texans have died while under restraint in police custody. According to the newspaper’s examination, 289 people died in the state under such circumstances from 2005 through 2016. The paper filed dozens of open records requests with agencies across the state in an effort to obtain police reports and after-incident internal investigations. This is the final story in the series. View the project website at apps.statesman.com/question-of-restraint.

THE INVESTIGATION FOUND:

- In 15 deaths in custody, suspects were shocked with Taser stun guns five or more times — and as many as 48 times — despite Taser's own warning that research has studied only the effect of three shocks on a person.
- More than 30 people with histories of mental health problems who were unarmed were killed while being restrained by police.
- Fifty civilians died in custody from "excited delirium," a controversial medical finding that typically involves a combination of drug intoxication, exertion and police restraint. In Texas, nearly 85 percent of excited delirium deaths were of black or Hispanic men.
- Medical examiners cited the act of restraint itself as contributing to the deaths of more than 50 of the people. A half-dozen were hogtied, a practice prohibited by many police departments.
MEMORIES: A family photo of Rafael Solis Sr. is displayed with his belts and buckles at his mother's home. Maria Escamilla found out about her son's death in the Webb County Jail on Valentine's Day 2009. Officers told her that Solis was found unconscious on the jail floor. The medical examiner said Solis died of asphyxiation resulting from physical restraint and declared his death a homicide. DEBORAH CANNON / AMERICAN-STATESMAN

289 deaths in police custody
From 2005 through 2016, 289 Texans died while under restraint in police custody. These numbers do not include shooting deaths, suicides or deaths by natural causes.

Source: Texas Attorney General
A SON’S DEVOTION: Esteban Solis, 17, shows a tattoo of his father’s name. Esteban’s brother Rafael Jr. said their dad was the kind of guy who could talk to anybody about a boxing matches or neighborhood news; he said the long-haul trucker was outgoing and always made his two sons feel special. DEBORAH CANNON / AMERICAN-STATESMAN

HAPPIER TIMES: A photo displayed in his mother’s home shows Rafael Solis Sr. (top right) having fun with family members. CONTRIBUTED
The end of their lives were violent, sometimes hauntingly so. An 18-year-old, his hands and feet bound in the back of a Mesquite police car, thrashing from a Taser used on his genitals.

A 52-year-old Rockdale man with the scars of 48 Taser marks on his back.

A 42-year-old man hogtied by deputies in Houston, in apparent violation of the sheriff department's policy. The breathing and dies.

In the past decade, 289 people have died in the custody of Texas law enforcement after what were almost always aggressive clashes with police.

Yet even when officers violated use-of-force policies — using banned tactics, for example, or failing to promptly medical help for an injured prisoner — it was rare for them to be charged with a crime. During the past decade, just a handful of times, a six-month investigation by the American-Statesman has found. It was equally uncommon to face discipline, such as suspensions or reprimands, from their departments.

Instead, their actions are often ratified by supervisors or fellow officers tasked with investigating such in-custody deaths who often focus more on the conduct of the suspect than on the officer's. Similarly, prosecutors in many instances appear to rubber-stamp investigations, infrequently seeking an outside review from a grand jury, even when they have ev possible crime.

That often leaves it up to families to exact justice in civil court — families of people who died in police custody since 2005 have won more than $20 million in settlements and judgments, the Statesman investigation found.

3 officers indicted in a decade

The newspaper identified only three cases in which an officer was indicted after an in-custody death.

They include Arlington jailers Pedro Medina and Steve Schmidt, who face charges of criminally negligent the death of Jonathan Ryan Paul, a man they subdued with physical restraints and pepper spray after polish him for outstanding warrants. Medical examiners found the actions of police played a role in his death, a Arlington City Council approved a $1.25 million settlement for his family in April 2016.

Similarly, the Statesman found only three instances in which officers were suspended or fired for their ac in-custody death. Along with Medina and Schmidt, they include Temple police officers Steven Taylor and Bracewell, who were fired in the death of Curtis Lee Lewis. An autopsy found Lewis died of cocaine toxicity "possible traumatic asphyxia" while being restrained by the officers. Taylor and Bracewell appealed and were reinstated with 15-day suspensions.

Almost invariably, an in-custody death begins with a suspect refusing to comply with an officer's order, and the deaths represent a fraction of the te thousands of people taken into police custody each day in Texas.

Kevin Lawrence, executive director of the Texas Municipal Police Association, offered a simple explanation about why so few officers are punished w dies.

"The vast majority of the time, officers do what the officers are expected to do," Lawrence said. "These are human beings we are pinning badges on them to go out there and do a job that is getting exponentially more difficult to do."

He said officers must make split-second decisions that affect their own safety and the safety of others, and that the public understands they don't al perfectly. Lawrence said most people are inclined to give them the benefit of the doubt.

But cases in which a person dies at the hands of police often leave family members at a loss, feeling as though no one is being held responsible for happened to their loved one.

The case of Rafael Solis Sr. highlights how elusive justice can seem.

Boot bruises on his chest

Maria Escamilla stood in a Laredo gas station parking lot on Valentine's Day 2009, shocked, confused and pleading for information about her dead sheriff's deputies standing in front of her.

What do you mean? What happened? Where is he?

Rafael Solis Sr. was fine when he was arrested on charges of failure to pay child support. But three days after being booked into the Webb County jail year-old trucker was dead.

Officers told her that Solis was found unconscious on the jail floor. An autopsy painted a more violent picture.

At the time of his death, Solis had two broken ribs; bruises on his arms, back, toes and ear; and cuts around his wrists. There was blood on his clothes on his face had the same pattern as the drain in his cell. The bruises on his chest looked like a partial work boot and laces.

Webb County said he died of alcohol withdrawal.

The medical examiner said Solis died of asphyxiation resulting from physical restraint and declared his death a homicide.
But standing in that gas station parking lot in 2009, Escamilla knew only that something was deeply wrong and that somebody needed to be held re
would take eight years and a protracted court battle to make that happen.

Police rarely faulted in deaths

Among law enforcement in Texas and nationally, there are no prescribed rules about who must investigate an in-custody death, how that investigati
done or what should happen once it is concluded.

Generally, however, when a person dies in law enforcement custody, agencies almost always immediately launch a full review of what happened and
officers should be held accountable for possible criminal violations or police procedural errors.

Frequently, departments, particularly smaller agencies or those in more rural areas, solicit the help of the Texas Rangers or another outside agency, : local sheriff’s office, for help.

Experts say it’s as much an issue of resources as the appearance of objectivity. When members of a small agency are investigating a fellow officer, th’re might be a close friend or former patrol partner.

“It adds some credibility to the investigation, that you have someone not responsible to them or to city hall doing the investigation,” said James Mc
director of the Texas Police Chiefs Association. “Most departments simply don’t have the expertise. A lot of the smaller departments only have a hor few years.”

Larger departments, including the Austin Police Department, investigate such cases themselves through special units dedicated to examining officer Those units typically consist of veteran detectives with an array of experience, including homicide investigations.

Either way, officers are almost always cleared by their departments.

“If the officer doesn’t do right, it becomes a question of intent,” Lawrence said. “Did the officer intend to break a policy or did he make a mistake? A human shortcoming?”

Once a case is finalized, it is generally passed on to local felony prosecutors for their review. Whether the cases are presented to a grand jury often : policies local prosecutors put in place.

In Travis County, for instance, prosecutors have historically presented all cases in which police officers use lethal force to a grand jury. But District At Margaret Moore announced in April that she will now do so only in cases in which she suspects criminal wrongdoing by officers or if facts of a case

The Statesman identified multiple cases with alarming circumstances that prosecutors didn’t take to a grand jury. The case of Willie Ray Banks, for in receive grand jury scrutiny after Banks died in the custody of Burnet County sheriff’s deputies and Granite Shoals police. Banks was subjected to mo minutes of shocks from a Taser, complained that he couldn’t breathe and lost consciousness.

The two agencies quietly paid a $250,000 settlement to Banks’ family in 2012. Four years later, when the Statesman requested records about the de district attorney reopened the case and presented it to a grand jury.

But by that time, the statute of limitations on most possible excessive force charges had expired. The grand jury declined to indict the officers involve
Experts say prosecutors often struggle with what to do in these cases. They recognize that bringing a criminal charge against a police officer is diffic jurors frequently give the benefit of the doubt to law enforcement. Yet they don’t want a law-breaking officer to go free.

Rob Kepple, director of the Texas District & County Attorneys Association, said the issue is increasingly discussed at statewide meetings and training prosecutors seek a best practice.

“I think you hold them criminally responsible when it is a criminal offense,” he said. “I think every prosecutor is thinking about that and looking at th
With the administrative and judicial system often not delivering the results sought by grieving family members, relatives frequently take their cases !

Costly battles, seldom won

Such lawsuits, however, aren’t easy to win. This area of the law is “incredibly intricate,” said UT Law School professor Jennifer Laurin, and an attorney well-versed in it to be successful. Plaintiffs face numerous hurdles, the largest of which is qualified immunity.

Qualified immunity is a standard designed to protect public officials from civil liability for actions they take related to their jobs. This can cover any mayor to a police officer or corrections officer who makes split-second judgments on how to respond to a rapidly evolving situation.

To overcome qualified immunity, plaintiffs have to prove that their statutory or constitutional rights were violated.

Meanwhile, these cases can generate thousands of documents that need to be scrutinized, which takes lots of time and, consequently, lots of legal f
“So what comes into the calculus is that these claims are incredibly expensive to litigate,” Laurin said.

Because of that, plaintiffs have to consider how much money they can expect to win in court. Unfortunately, she said, juries often think more poorly who died while in the criminal justice system and are less likely to award substantial damages.

These cases also spend years in court as both sides wade through court hearings, turn over documents to the opposing attorneys and wait for court ultimately dictate the course of the case.
3 struggles with jailers

Rafael Solis Jr. says his dad was the kind of guy who could talk to anybody about a football game, boxing matches, neighborhood news — the long-was outgoing with a loud laugh and a love for his two sons that made them feel special.

‘The vast majority of the time, officers do what the officers are expected to do. These are human beings we are pinning badges on and ask go out there and do a job that is getting exponentially more difficult to do.’

KEVIN LAWRENCE, EXECUTIVE DIRECTOR OF THE TEXAS MUNICIPAL POLICE ASSOCIATION

The elder Solis was on the road a lot. When he came home, Solis and his sons worked on cars and played sports.

“He was a very kind person,” Rafael Solis Jr. said. “He always had time for us. He was a very big part of my life, like my best friend.”

But Rafael Solis Sr. and his ex-wife had a dispute over money. On Feb. 11, 2009, he was arrested and taken to the Webb County Jail for allegedly fail child support.

His stay was uneventful for two days. On Feb. 13, Escamilla went to visit her son at the jail. He seemed healthy and everything seemed OK, she said. He told her he planned to deal with the child support problem as soon as he was released for the sake of his sons.

Everything changed on Valentine’s Day.

At 4 a.m. that day, jail medical records state, Solis seemed to be confused, disoriented and experiencing hallucinations. Medical staff believed Solis was experiencing delirium tremens, a severe form of alcohol withdrawal that can be fatal.

Details offered by the jailers involved vary by person, according to information provided to the Rangers. But all of them provided some version of the events.

Solis was moved into a detox cell, a padded room designed to keep inmates from hurting themselves. But the lock was broken on that door and Solis kept walking out, so jailers put him in another cell. Solis later began screaming and banging his head, arms and hands on the door, court records state.

That’s when Solis was restrained for the first time.

Saying they wanted to protect Solis from himself, officers decided to restrain him with handcuffs and leg shackles. But when they opened the door, Solis was barreling out of the cell, falling to the ground with one of the jailers, according to the Rangers’ investigation into his death.

Four jailers cuffed and shackled him, with one using his personal handcuffs to restrain Solis. They then exited the cell. Solis continued to scream and his cell. At some point in the fracas, his pants had come off while jailers tried to shackle him.

Later, the jailer decided he wanted his personal handcuffs back. That’s when the jailers restrained Solis a second time.

Solis continued to yell and bang around his cell, records show. After consulting with the jail nurse, officers decided to take him to the local hospital. believed they couldn’t handle him in his agitated state, so they restrained Solis a third time while the jail nurse gave Solis a shot of Benadryl, thinking it would calm him down.

The jail doctor later said he never ordered that shot because “it wouldn’t have made a difference,” the Rangers report states.

After 30 minutes or so, jailers entered the cell to take Solis to the hospital. But the incident turned violent once again — and, this time, deadly.

According to one of the jailers, Solis was sitting in the cell with his back to the door. The jailers entered the cell, flipped Solis on his stomach and held him while others tried to get his pants back on.

“During this process, (a jailer) recalled Solis urinating,” the Rangers report states. Solis “was yelling and struggling then both ceased at the same time looked at Solis and saw Solis’ whole face was blue and/or purple.”

Solis was taken to the hospital, where he was pronounced dead.

‘You killed my son’

Escamilla says she was at her daughter’s house when she got the phone call from Webb County deputies. They were at her house, they told her, and speak to her. The officers didn’t want to meet Escamilla at her daughter’s house, she said, so they agreed to meet at a gas station.

That’s where Escamilla learned her son was dead and where she first tried to get answers. But the officers would say only he had been found unconsol floor of his cell, Escamilla said. As they got in their car and drove away, she yelled, “You killed my son!”

In 2011, Escamilla filed a lawsuit on behalf of herself and Solis’ two sons. Among their claims: The jailers had used excessive force.

Webb County officials deny that.

“Our position was always that force that was needed in the situation because he was out of control,” said Molly Higgins Santos with the Webb Coun Office.

County records state that Solis was agitated, confused, hallucinating and sweating, all of which are symptoms of the DTs (an autopsy later confirmed suffering from the condition). Jailers moved him to a padded cell and tried to keep him from hurting himself, she said. Records also indicate jailers v him to the hospital for additional medical care.

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Over the next six years, the case slogged through the court system. Solis’ family insisted that he died because of the repeated restraints, as the auto
Rangers report stated. The county hired an outside expert, who maintained that Solis died of the DTs. The broken ribs likely occurred during CPR off
administered, Santos said. The expert didn’t speak to the bruises in the shape of a partial boot and boot laces.

In April, shortly before the case was set to go to trial, Webb County and the Solis family settled for $1 million. Santos declined to discuss why the county
but noted that it was not an admission of liability.

Rafael Solis Jr. said he and his grandmother spent many years waiting for justice. Now, he said, he and his family can go on with their lives and stop hav
about a seemingly never-ending legal battle. But the loss of his father, he said, will stay with him forever.

“We’re all humans, and we’re all supposed to be treated the same,” he said. “That wasn’t the case here.”

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