

Sandra Bland Report¹

Objective: To examine video evidence and investigate the death of Sandra Bland who died while in custody of Waller County Sheriff's Department.

Investigation

A meeting between government officials and community leaders was to begin at 2:00PM July 21, 2015. Instead of heading to the meeting place, I decided to first pay an uninvited visit to the Waller County Sheriff's Office, the alleged location where Sandra Bland died. I arrived at the Sheriff's office at 1:00. The office is a small building located on a dusty road in rural Hempstead, Texas. I entered the building and informed the Black female officer at the front desk that I am with the NAACP-Houston; I was there to see the Sheriff; and that I did not have an appointment. A black female Sheriff then escorted me through the building to a small break room where I was greeted politely by the Sheriff. After introductions, I sat at a table with the sheriff and several deputies. I asked Sheriff Smith to explain the purpose of the 2:00 meeting. The Sheriff informed me that the purpose of the meeting was "transparency"; the video footage of the arrest and detention of Sandra Bland would be released subsequent to the meeting and he wanted to give community leaders and political figures an opportunity to view the video and ask questions about the circumstances surrounding the death of Sandra Bland. I then excused myself and made my way to the meet with NAACP officials before heading to the campus of Prairie View University for the 2:00 meeting.

The Meeting:

Attendees: NAACP-Houston Executive Director, Yolanda Smith, Lt. Governor Dan Patrick, Sen. Royce West, Rep. Ron Reynolds, Rep. Sylvester Turner, Rep. Alma Allen, Rep. Helen Giddings, Waller County Sheriff Glenn Smith, Waller County District Attorney Elton Mathis, Col. Steven C. McCraw (Director of Texas DPS), Philip Steen (Regional Commander Texas DPS) and others.

Sen. Royce West chaired the meeting. The video of the arrest of Sandra Bland was shown first. It was stopped several times and rewound several times while community leaders and state officials asked several questions. Steven McCraw, Director of Texas Department of Public Safety made it clear that the conduct of the DPS officer during the stop was "unacceptable". Director McCraw informed the group that the conduct of the arresting officer departed from standard operating procedures and he strongly insinuated that the arrest of Sandra Bland was not necessary and perhaps unlawful.

¹ Our condolences go out to the family of Sandra Bland. There is arguably no greater grief than that of a parent who loses a child. That grief is compounded when there is suspicion of foul play.

Next, Waller County Sheriff, Glenn Smith came forward and explained the video footage of the detention of Sandra Bland while answering questions lodged by visibly and vocally angry community leaders and politicians. The attendees repeatedly demanded a U.S. Department of Justice Investigation. Director McCraw privately asked me if a Department of Justice Investigation was necessary given the FBI involvement. I informed him that a Department of Justice –Civil Rights Division investigation was absolutely essential to a determination of whether Sandra Bland’s civil rights were violated.

Facts

Video of the arrest of Sandra Bland:

Before the stop of Sandra Bland, the DPS officer stopped another Black female at or near the campus of Prairie View University. He is seen on the video giving a warning for a traffic violation. At all times pertinent to this stop, he treats the citizen with both courtesy and respect. Moments later, the DPS officer pulled over Sandra Bland. He sped up behind her car and she changed lanes without signaling a lane change. It is noteworthy that at this point, it is difficult to discern whether the officer is aware of her race. Sandra Bland is approached by the DPS officer and is compliant and respectful. She first gives the officer a student ID, then gives him an Illinois driver’s license. The DPS officer returns to his patrol car, then emerges intent on giving Sandra Bland a warning for her traffic violation. While issuing the warning, Sandra Bland is upset. The officer asks Sandra Bland to put out her cigarette and she questions the officer’s authority. The officer opens her car door, pulls out a taser, points it at Sandra Bland, and informs her that she is under arrest.

Sandra Bland exited the vehicle under very clear vocal protest and was guided by the DPS officer out of the view of his dash camera. Prairie View Campus police arrived on the scene in response to the DPS officer’s call for back up.² Sandra Bland can be heard off camera protesting her arrest and indicating that the officer has slammed her to the ground causing her injury. The DPS officer is heard ordering a bystander taking video footage to leave. The Prairie View Campus police officer (black female) corroborated the officer’s allegation that he was kicked by Sandra Bland. Sandra Bland was placed into the squad car of the Prairie View Campus police officer. An ambulance was called and Sandra Bland allegedly refused treatment and was then taken to the Waller County Sheriff’s office for booking on a charge of assaulting a police officer.

Video of the Detention of Sandra Bland:

It is noteworthy that I NEVER saw Sandra Bland on any of the video footage taken inside of the Waller County Sheriff’s office. I did not see her during booking, I

² The dash camera of the Prairie View Campus police officer was not operating and did not record any of the events surrounding the arrest of Sandra Bland.

did not see her taken to her cell, I did not see her leave the cell to make phone calls, and I did not see video footage of her taken out of her cell after the alleged Suicide. The video camera was at a distance from her cell and she could not be seen inside of the cell. The only independent evidence that I have encountered that would suggest that Sandra Bland was indeed at the Waller County Sheriff's office is a recorded phone call that I heard on CNN in which she left a voicemail message for a friend or family member and an interview that I saw of a female inmate who allegedly had a conversation with Sandra Bland while she was at the Sheriff's office.

Discussion with Sheriff Glenn Smith:

Sheriff Glenn Smith indicated as follows:

During booking, Sandra Bland indicated that she had a miscarriage, attempted suicide with pills a year ago and was epileptic.³ Sandra Bland was asked if she was depressed and allegedly replied; "No, I'm pissed off".

Sandra Bland was arraigned Saturday on \$5,000 bond, she called a friend and her sister about making bond.

According to Sheriff Smith, the phone in Sandra Bland's cell either didn't work or she was having difficulty getting her friends and family members to accept her collect calls, so she was brought out of her cell to make free phone calls at the booking desk. (I never saw video footage of Sandra Bland being brought out of her cell to make these calls). Sheriff Smith indicated that Sandra Bland was segregated from the rest of the prisoners based on the severity of her charges and insinuated that she had a criminal background that also merited her segregation from the other three female prisoners.

Sandra Bland's cell was a room incased with steel that had a plexi-glass window and a feeding slot. Ms. Bland allegedly instructed the female prisoner's in the adjacent cell not to eat the prison food and she herself refused to eat. According to Sheriff Smith, Ms. Bland remained in this isolated cell the entire time that she was in police custody, except when she was allegedly allowed to make "free phone calls" from the booking desk.

7:00 Monday morning, Sandra bland refused breakfast. The jailor opened the door and told her that she needed to eat, but she refused. At 8:00 AM, Sandra Bland called her jailors on the intercom and indicated that she wished to place a phone call. At 8:50AM a female jailor looked through the food tray opening and saw Sandra Bland's feet. She then looked through the window and saw Ms. Bland with a trash bag tied around her neck. Waller County Sheriff officials entered the cell and

³ I have examined the booking documents and noted that they are inconsistent. One page indicates that she attempted suicide, on another page she replied to "no" to a question about prior suicide attempts.

allegedly performed CPR until the paramedics arrived.⁴ Paramedics were observed via video footage arriving on the scene. Sheriff Smith indicated that they pronounced Sandra Bland dead shortly thereafter. I did not observe any video footage of Sandra Bland entering or leaving cell number 95 where she was allegedly held.

At the time of Sandra Bland's death, the staff of the Waller County Sheriff's Department consisted of one White female, two African-American males, one Hispanic female and one White male (who was the supervisor).

Waller County Sheriff Smith admitted that his staff failed to comply with state regulation that required an hourly visual check on all inmates. This failure occurred during the hour that Sandra Bland allegedly committed suicide. Sheriff Smith also indicated that Sandra Bland tied a trash can liner to a brace in the ceiling, tied it around her neck and sat down. He also indicated that at the time her death, the bible in her cell was opened to Psalms 119.

Waller County District Attorney's Office:

Waller County District Attorney - Elton Mathis indicated that the autopsy report revealed death by asphyxiation, that Sandra Bland also had signs of healed cuts on both arms and that the cuts were indicative of a "bleeder". He also said that the autopsy report indicated that Ms. Bland had signs of trauma to her throat, wrists and back.

Texas Department of Public Safety:

Texas Department of Public Safety, Regional Commander Philip Steen indicated that the FBI has authenticated both the arrest footage and the jail footage. Neither had been tampered with or intentionally altered. He also indicated that there was a sexual assault examination performed on the body of Sandra Bland. When asked about the cell phone footage of the arrest taken by Sandra Bland, officer Steen indicated that his office was working with the Waller County District Attorney's office and the FBI to unlock her phone and obtain the footage.

Conclusion and Recommendations

The Arrest of Sandra Bland:

An officer must have probable cause to make an arrest. Probable cause is frequently defined as follows: **Apparent facts discovered through logical inquiry that would lead a reasonably intelligent and prudent person to believe that an accused person has committed a crime, thereby warranting his or her arrest**

⁴ I indicate here that CPR was "allegedly" performed because the video was on the outside of the cell and I did not observe CPR being performed on Ms. Bland.

and prosecution. The Texas Transportation Code and the Texas Criminal Procedure Code give an officer the authority to arrest a driver for a minor traffic violation. However, DPS officer Brian Encinia was issuing Sandra Bland a “warning”, not arresting her for the traffic violation. Sandra Bland was placed under arrest when Officer Encinia opened her car door, pointed a taser at her and told her that she was under arrest. Refusing to put out a cigarette and speaking rudely to a police officer is not a violation of criminal law. Once Encinia was out of view of the dash camera, he alleges that she kicked him (while handcuffed). She was charged with assault of a peace officer.

Encinia did not have probable cause to arrest Sandra Bland, so her conduct after the false arrest is what is commonly referred to as “fruits of the poisonous tree.” In other words, because the arrest was unmerited and unlawful, nothing that Sandra Bland did after the arrest should be considered. An honest and fair judge would have thrown out the assault on a peace officer charge because it was incident to an unlawful arrest.

The following conduct of Officer Encinia violated DPS operating procedures and/or state law:

1. He should have given Sandra Bland the warning and just walked away.
2. He failed to deescalate the situation.
3. He called his superior from his cell phone and lied about his attempts to deescalate the situation.
4. He arrested Sandra Bland for refusing to put out her cigarette and presumably for her less than courteous demeanor (neither of which are against the law).
5. Sandra Bland informed him that she is epileptic, to which Officer Encinia responded “good.”
6. He told a bystander filming the encounter to leave. (It is not against the law to film or record a police officer).
7. He used excessive force when he slammed Sandra Bland to the ground and put his knee on her neck after she allegedly kicked him.

The incarceration of Sandra Bland:

During the three hour meeting with police officials, community leaders, and politicians, Waller County Sheriff revealed that Sandra Bland’s booking documents indicated she had lost a child, was depressed, and had attempted suicide will pills in the past. Waller County District Attorney indicated that the autopsy revealed Sandra Bland had several unhealed wounds on both wrists, consistent with a “bleeder” (someone who cuts themselves for psychological reasons). Sandra Bland was wearing a sleeveless dress at the time of her arrest and booking. Ms. Bland was also isolated from the other female prisoners. Texas regulations require a visual check of each prisoner every hour on the hour. The hour that Sandra Bland allegedly committed suicide, there was no visual check performed by Waller County Sheriff’s Department.

Sandra Bland should have been placed on suicide watch. She disclosed a previous suicide attempt and had visible cut marks consistent with a bleeder, on both arms (she was wearing a sleeveless dress). Furthermore, the failure to do a visual check on Sandra Bland during the hour that she committed suicide was a fatal mistake.

The Death of Sandra Bland:

At this point, I can not in good conscience reach a definitive determination as to whether Sandra was murdered or she committed suicide. However, the evidence that I have reviewed, tends to lean towards suicide. Ms. Bland made calls to relatives and family members. The calls were made from Waller County Sheriff's Department. Other female inmates have indicated that they communicated with Sandra Bland while she was incarcerated. I have seen video of one particular inmate who stated that Ms. Bland was growing increasingly frustrated and depressed about her circumstances. The autopsy report revealed marks on her neck that are consistent with suicide. The autopsy report revealed no defensive wounds to her hands. The booking records indicate that she had previously attempted suicide by pills. There was a camera running outside of her cell the entire time (I saw no one enter the cell until after the alleged suicide).

I was at the briefing on the video surveillance footage from inside the Waller County Sheriff's Department. I did not see Sandra Bland in any part of the video. I have not seen footage of her during booking. I did not see video of Ms. Bland being brought to her cell. The Sheriff indicated that Ms. Bland was brought from her cell to make free phone calls on at least two occasions; I have not seen this footage. Even after the footage of the female officer checking cell number 95 and calling for assistance, I did not see Sandra Bland. I saw video of paramedics enter the facility, but did not see Ms. Bland's body removed from the facility. To date, I have not, with my own two eyes, seen any video of Ms. Bland at the Waller County Sheriff's office. I also find it suspicious that a six foot tall woman can tie a plastic bag around her neck and to a five foot high support beam and sit down, without her hands tied, killing herself. If there is in fact video of Sandra Bland being placed inside her cell at the Waller County Sheriff's Department, then I would in good faith change my inconclusive determination to suicide and rule out murder as the cause of death.

Summary

Sandra Bland was unlawfully arrested and the arresting officer used excessive force. Waller County Sheriff's office should have placed her on suicide watch. Waller County Sheriff's office failed to do a visual check on Sandra Bland during the hour of the alleged suicide. Sandra Bland would be alive today but for the unlawful conduct of Officer Encinia and the grossly negligent conduct of the Waller County Sheriff's Department.

Recommendations

I recommend that the NAACP-Houston draft a resolution calling for the immediate termination of DPS Officer Encinia, the Waller County Deputy responsible for not placing Sandra Bland on suicide watch and the Waller County Deputy Supervisor responsible for failing to conduct a visual observation in the hour that she allegedly committed suicide. Encinia's conduct during the arrest was unlawful and inexcusable. The Waller County Deputy who failed to place Sandra Bland on suicide watch engaged in wanton behavior that recklessly disregarded her disclosure of a prior suicide attempt. The Waller County Sheriff's Department supervisor on duty failed to effectuate a visual observation of Sandra Bland that could have saved her life.

Texas Penal Code Annotated Section 6.03(b) defines criminal negligence as follows:

A person acts with criminal negligence, or is criminally negligent, with respect to circumstances surrounding his conduct or the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

I recommend that the NAACP-Houston immediately pass a resolution calling for the Waller County District Attorney to indict the Waller County Deputy responsible for not placing Sandra Bland on suicide watch and indict the Supervisor who failed to effect a visual observation. Their conduct is arguably consistent with criminally negligent homicide.