

House Judiciary

02/06/2024 01:30 PM

HB24-1103 Prohibiting Term Excited Delirium

Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
Azela Garcia- DeLuna For themselves	To those not wanting to prohibit the use and term excited delirium, I'm sure you haven't experienced the loss of a loved one due to injustice in our judicial system, government, and police enforcement. Many families have been devastated hearing that the cause of death has been, "excited delirium." When it seems like every case in Colorado where a police officer was in the wrong for cause of death, got a pat on the back and cover up with the term excited delirium. I watched my sister and her younger siblings experience great loss and go without a dad for special events in their life. They don't get their father daughter dance or a walk down the aisle at their weddings, or have a grandpa to their children. Their father Alejandro Gutierrez was murdered in the hands of Thornton Police and it was covered up by the Adams County Sheriffs Office as 'excited delirium.' This has just caused entitled policemen to get away with murder and everyone to forget about the loss of loved ones who never got to rest in peace due to our injustice system.

Good afternoon -

My name is Rebecca De Luna. I come before you today to ask that you please ban the term "excited delirium".

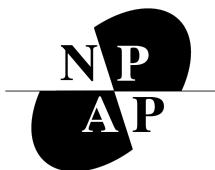
In 2017 I lost a beloved family member, the father of my child, Alejandro Gutierrez, whose death was recorded as excited delirium. There is no pain greater than losing a spouse, a father, a son, a brother, an uncle. There aren't words to describe the grief that my daughter has endured losing her father. The pain she displayed as we went to the Coroner's office to identify his body and retrieve his belongings. His face was bruised with an imprint of a shoe. His appearance was unrecognizable. I can not imagine the injuries he suffered to the rest of his body as we were only allowed to see his face.

The term has been used far too long as an excuse for law enforcement to protect themselves when someone dies in their custody; quite frankly as a result of excessive force and what I consider police brutality resulting in death is the cause of many deaths recorded as excited delirium including Alejandro's.

In light of the 2023 years decision by the National Association of Medical Examiners as well as The American College of Emergency Physicians to disavow the term "excited delirium".

I plead with you today, to please disavow and ban the use of the term altogether.

Thank you



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February 6, 2024

Dear Chair Weissman and Members of the Committee,

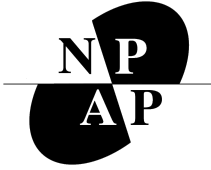
On behalf of the National Police Accountability Project (“NPAP”), we write to urge you to support HB 1103, a bill that will would prohibit: (1) “excited delirium” from being recognized as a valid cause of death; (2) peace officers from using the term “excited delirium” when describing an individual in an incident report; and (3) use of the term excited delirium in training for law enforcement personnel, emergency medical service providers, or other first responders. HB 1103 will help reduce the use of the unscientific, racist theory of “excited delirium” to justify law enforcement violence and hinder accountability.

NPAP is a nonprofit organization dedicated to holding law enforcement and corrections officers accountable to constitutional and professional standards. We have dozens of members in Colorado who regularly represent the loved ones of people who have been killed in police or prison custody. In many of their cases, officers and their legal defense teams claim that their clients’ loved ones died due to “excited delirium” rather than the obvious consequences of excessive force. Moreover, many officers attempt to justify their continued use of deadly force because their clients’ loved ones were in a “state of excited delirium.” For instance, the officers that killed George Floyd cited “excited delirium” as a defense in his criminal case and his colleagues referenced it at the scene of the crime.¹ Similarly, the City of Aurora cited “excited delirium” to justify the use of a prolonged stranglehold against Elijah McClain.²

“Excited delirium” is a condition that lacks clear diagnostic criteria and is almost exclusively cited as a cause of death in cases where a person was

¹ Steve Karnowski, *EXPLAINER: Why ‘excited delirium’ came up in at Chauvin trial?* Associated Press, Apr. 19, 2021, <https://apnews.com/article/health-death-of-george-floyd-trials-george-floyd-3b60b3930023a2668e7fc63f903fc3aa>.

² *Id.*



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killed by law enforcement officers.³ There is no consensus about the definition of “excited delirium” in medical literature or surveyed clinicians.⁴ Even the shrinking community of proponents of “excited delirium” concede that it is a “diagnosis of exclusion,” or a potential explanation for deaths “when there are no other explanations.”⁵ Unsurprisingly, a recent report by Harvard University and University of Michigan doctors found that the syndrome is “scientifically meaningless,” not a proper medical diagnosis, and should not be cited as a cause of death.⁶

Courts across the country have also raised doubts about “excited delirium” in law enforcement death cases questioning the syndrome’s scientific validity and an officer’s ability to determine whether a person was in a state of “excited delirium.”⁷ Accordingly, the restrictions proposed by HB 1130 would be consistent with how many courts already treat cause of death findings of “excited delirium” and officer statements claiming a person was suffering from the syndrome.

In addition to the problems of scientific validity, “excited delirium” is rooted in racial stereotypes and has been disproportionately applied in deaths of Black men. The most commonly cited symptoms of people experiencing “excited delirium” are imperviousness to pain and superhuman strength, characteristics that have been baselessly attributed to Black people to justify

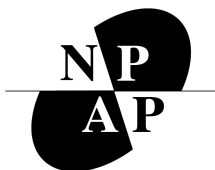
³ *Excited Delirium and Deaths in Police Custody: The Deadly Impact of a Baseless Diagnosis*, Physicians for Human Rights, March 2, 2022, https://phr.org/our-work/resources/excited-delirium/?CID=701f4000018pCHAAAY&ms=FY20_SEM_GoogleAd&gclid=CjwKCAiAg6yRBhBNEiwAeVyL0MLe0cfsU9OOQ2h3yxBloHm8vQxxSa5IeE5YWqTx6rS4avOGK2F0UhoCtpwQAvD_BwE.

⁴ *Id.*

⁵ Eric Dexheimer and Jeremy Schwartz, *In fatal struggles with police, a controversial killer is often blamed*, Austin American-Statesman, May 27, 2017, <https://www.statesman.com/news/20170527/in-fatal-struggles-with-policecontroversial-killer-is-often-blamed>.

⁶ *Supra.*, Note 3

⁷ *Lombardo v. St. Louis City*, 141 U.S. 2239 (2021); *Morad v. City of Long Beach*, 2017 WL 5187826 (C.D. Cal. Apr. 28, 2017); *Estate of Berger v. Spokane County*, 2017 WL 5639939 (E.D. Wash. Jan. 5, 2017); *Pedro v. Town of West Warwick ex rel. Moore*, 889 F. Supp. 2d 292 (D.R.I. 2012).



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abuse and mistreatment dating back to slavery.⁸ Additionally, Black people were overrepresented in a study of in-custody deaths where “excited delirium” was cited as a cause of death.⁹

HB 1130 would place meaningful restrictions on law enforcement’s ability to avoid accountability and perpetuate racist stereotypes about victims of police violence. We strongly urge you to pass this bill. If you have any questions, please do not hesitate to contact Lauren Bonds at legal.npap@nlg.org or Keisha James keisha.npap@nlg.org.

Sincerely,

Lauren Bonds
National Police Accountability Project

⁸ *Examining the Myth of the ‘Superhuman’ Black Person*, NPR, Nov. 30, 2014, <https://www.npr.org/2014/11/30/367600003/examining-the-myth-of-the-superhuman-black-person>.

⁹ Julia Jones, *Authorities claimed these Black men had excited delirium just before they died*. CNN, March 12, 2022, <https://www.cnn.com/2022/03/12/us/excited-delirium-police-deaths-study/index.html>.