

Investigations

# How Minneapolis police handled the in-custody death of a Black man 10 years before George Floyd

A decade before Floyd's death, David Smith died in Minneapolis police custody. But his case did not cause public outcry, and officers involved did not face discipline.

► **Play Video**

By **Neena Satija**

AUGUST 29, 2020



“Is he breathing?” Minneapolis police officer Timothy Callahan wondered aloud.

The question came after he and his partner — responding to a call of a person acting strangely at a YMCA — Tasered a young Black man five times during a chaotic fight, wrestled him to the ground and handcuffed him facedown on a basketball court.

Callahan sat on David Cornelius Smith's legs while his partner, Timothy Gorman, pressed his knee for 4 minutes and 30 seconds between Smith's shoulders, a video shows. Smith moaned on the floor, then fell silent.

"Dave, what are you on, man?" Gorman asked.

"You gonna talk to us?" Callahan added, and later checked for a pulse.

He found none.

Smith, 28, died at a hospital about a week later, on Sept. 17, 2010. The county medical examiner ruled his death a homicide, listing cardiac arrest as the cause and "mechanical asphyxia" — the kneeling — as a major contributing factor.

A decade later, Smith's sister Angela watched a viral video of another Black man pleading for breath under the weight of a Minneapolis officer.

"You can't imagine the pain I felt when I watched the video of George Floyd with the officer's knee on his

neck, and [him] on the ground by himself,” Angela Smith said.

*[The death of George Floyd: What video and other records show about his final minutes]*

Both men died after police spent several minutes kneeling on them, including after the handcuffed men showed no outward signs of resistance, videos show.

After Floyd’s death in May, which was also ruled a homicide, four Minneapolis police officers were fired and criminally charged, and his death launched nationwide protests over racism and police violence.

In the Smith case, there was no public outcry after the encounter with Callahan and Gorman.

The officers were not criminally charged or disciplined. The Internal Affairs unit never interviewed them, according to court records.

LEFT: Timothy Callahan was one of two police officers on the scene at a Minneapolis YMCA 10 years ago in an incident involving David Cornelius Smith. A pen camera located in Callahan's breast pocket captured crucial footage. (Obtained by The Washington Post) RIGHT: Officer Timothy Gorman, who retired in 2016, is shown here in 2012 while being deposed by lawyers for the family of David Cornelius Smith. (Obtained by The Washington Post)

Of David, Angela Smith said, “it’s like he died and nobody cared.”

A Washington Post examination of records obtained in a wrongful-death lawsuit filed by Smith’s family offers a rare, detailed look at how the Minneapolis Police Department investigated itself when a civilian was fatally injured in custody. The records include a dozen taped depositions, internal investigative records and multiple videos of the incident.

Though the officers were cleared of misconduct, some supervisors questioned by Smith family attorneys in depositions taken two years later in the lawsuit said they saw lapses in how Smith had been treated.

“There were clearly issues in this case where the way we train officers to monitor someone’s medical condition and breathing, these training standards were not upheld,” Amelia Huffman said when she was deposed. Huffman was commander of criminal investigations at the time of Smith’s death.

The then-homicide commander, at his deposition, said he saw what he regarded as a violation of a policy requiring officers to render care promptly. He said he did not report his concern at the time to anyone.

Investigators focused on the use of the Taser rather than the sustained kneeling, records show, and they never asked the officers why they remained on Smith for more than four minutes.

In addition, homicide detectives said in depositions that, before questioning Callahan and Gorman, they did not view a video of the incident that Callahan had captured on a personal camera in a pen he carried in his shirt pocket.

The Smith family's lawsuit called the investigation a "sham." In 2013, the city settled the wrongful-death claim for \$3 million, with no admission of liability but a promise that its officers would "undergo training on positional asphyxia."

Geoffrey P. Alpert, a criminology professor at the University of South Carolina, said there is no comprehensive data on in-custody deaths that occurred in a manner similar to Smith's.

Placing a knee on someone's neck is "such an obvious, dangerous tactic" that it has long been discouraged in police training, he said. A knee on the back is far more common and acceptable when handcuffing a suspect, he said. "But immediately after that person's been controlled, you roll them over. You give them the opportunity to breathe."

Training on that approach has been in place for decades, Alpert said. "A reasonably trained police officer should know that."

Callahan, who remains on the Minneapolis police force after nearly 27 years, referred questions about the Smith case to the department.

Gorman retired in 2016 after 20 years and did not respond to requests for comment made through the department and the police union.

Staff at the YMCA called the police after a teenage boy said Smith had been behaving oddly and made him feel uncomfortable on a court. Smith, who struggled with mental illness, punched Callahan in the face as the officers sought to escort him out.

In depositions, both officers said that they restrained Smith after a fight that left them tired out, and that they did not realize his condition was deteriorating. “He was yelling and screaming,” Callahan said. “That indicated to me that he was breathing.”

In a statement to The Post in August, Minneapolis Police Department spokesman John Elder said, “By the time the officers realized that Smith was dying, they indicated they were

completely exhausted and recovering from the extreme distress and physical fatigue caused by the struggle.”

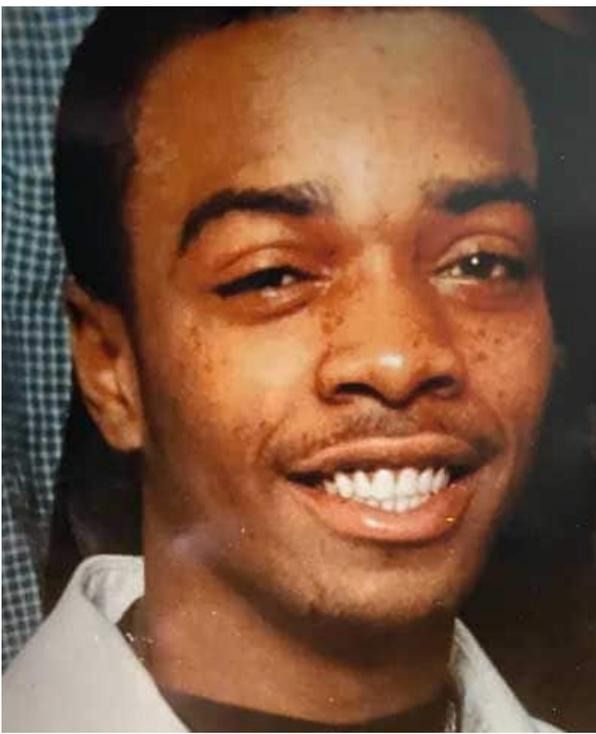
The officers called for an ambulance after Smith was on the ground, and later started CPR when they found no pulse, the videos show.

“What is clear is that the officers tried to save Mr. Smith once they realized the peril he was facing,” Elder said.

“As tragic as the incident was, the officers tried their best, and if mistakes were made they were done so under the standard law-enforcement practices and training at the time.”

### **An agitated man, a call to police**

One of seven children raised by a single mother in Peoria, Ill., Smith moved to Minneapolis around 2000 when he was 17 to participate in Job Corps, a free federal vocational training program. He decided to stay, taking community college classes and dreaming of starting his own business, his sister said.



David Cornelius Smith, shown here in an undated photo, was Tasered, wrestled to the ground, handcuffed and had a knee placed between his shoulders by Minneapolis police. (Family photo)

In the months before his death, records in the lawsuit show, Smith had been hospitalized for a psychotic episode in the spring, and again that fall after overdosing on cold medicine.

Basketball comforted him, his sister said — one reason he joined the

YMCA.

On Sept. 9, 2010, a teenage boy told YMCA staff that Smith was making him uncomfortable. When a fitness director tried to speak with Smith, she thought he seemed disoriented. “It was then that I decided to call the police to escort Mr. Smith from our building,” she wrote in a staff report.

Gorman and Callahan got the call. Shortly after 4 p.m., they approached Smith on the court.

“I heard the cops repeatedly tell Mr. Smith to calm down, that they just wanted to talk to him,” the fitness director wrote, but he moved away and didn’t answer.

The encounter that followed was captured by YMCA security cameras, the camera in Callahan’s Taser and the pen camera in Callahan’s breast pocket.

As Gorman and Callahan grabbed Smith’s arms, he tried to break free. The situation escalated as officers maneuvered him away from a group of young basketball players.

Callahan Tasered Smith, who dropped to the floor. Smith got back up and punched Callahan in the face.

After a second Taser, Smith fell again but continued to resist being restrained. Callahan Tasered him three more times, and the officers rolled him onto his stomach.

Callahan sat on Smith’s thighs. Gorman knelt between his shoulder blades and handcuffed him at about 4:08 p.m.

Smith gasped and cried out, videos show. Callahan called for an ambulance, and Gorman kept his knee in place.

“Made that a lot harder than it needed to be, Dave,” Gorman told Smith about a minute after he began kneeling on him, according to audio captured by the pen camera.

Seconds later, Smith made the guttural sounds of someone struggling to breathe, which the medical examiner later said could be called “sonorous breathing” or “agonal breathing.”

Gorman and Callahan held their positions. Smith fell silent, with one eye appearing to be open and unblinking.

About 4 minutes and 30 seconds after kneeling on Smith’s back, Gorman stood.

Soon after, Callahan asked for the ambulance to speed up and then checked Smith for a pulse.

“Gorman! Gorman!” he yelled. “I don’t think he’s breathing.”

Smith had been facedown for about seven minutes, video shows, before Callahan turned him over and started CPR.

The pen camera video stayed on, capturing a cellphone call Callahan made to his wife from the gym. He said he wouldn’t be home for a while because “something bad happened.”

Using a nickname for Gorman, he told her, “I think Jimi and I killed a guy.”

Later, Callahan told Smith family attorneys, “That’s not the way I meant it.”

“It was just a word that I used, but I didn’t believe that we had caused his death.”

### **Questions not asked**

On Sept. 15, 2010, Callahan and Gorman arrived at police department headquarters to be interviewed by homicide detectives as Smith was in dire condition.

A police union lawyer presented detectives with a flash drive that held the video from the pen camera, records show.

In the era before officer body-worn cameras and cellphones, it was rare to have such up-close video of a police incident. Yet, detectives did not watch it before interviewing the two officers, detectives later said in depositions. And they did not go back with additional questions after reviewing it.

When Gorman and Callahan spoke with the detectives, the officers focused chiefly on their struggle to bring Smith to the ground and the Taser use, records show.

Callahan told detectives that once Smith was on the floor and handcuffed, “I believed that Smith was giving up at this time and complying.” Still, he told department investigators, he was concerned Smith might start fighting again and was himself exhausted from the fight, so he sat on Smith’s “upper thighs/back of his knees area.”

Gorman told detectives, “I maintained my left knee in contact with Smith’s right shoulder.”

Asked if he had used any other force, he said, “I issued a light open hand cuff to the top of his head.”

The video should have prompted more questions, said Seth Stoughton, a law professor at the University of South Carolina who is a former police officer and who wrote a book with Alpert on police use of force.

“How long were you on his back? How long was he in that handcuffed prone position? How long was he in agonal breathing? How long did you keep him in that position after you noted that he had become nonresponsive?” said Stoughton, who was not involved in the lawsuit. “As it turns out, those are all highly relevant.”

The Smith family’s lawyers focused on those very questions in depositions as they sought to understand the scope and rigor of the investigation.

“Did you ask Gorman or Callahan any pointed or direct questions regarding

the execution of the prone restraint maneuver?” one Smith lawyer asked Darcy Klund, the homicide detective who led the questioning.

“No,” Klund answered. He said he also did not ask whether Smith continued resisting after being held facedown, or how long officers had applied pressure to his back.

“Was that important to you?”

“No,” Klund said. He later added, “Video usually speaks for itself.”

Responding to questions from The Post, Erik Nilsson, the interim Minneapolis city attorney, agreed with Klund’s assessment.

“Once detectives viewed the pen camera video, it was obvious why the officers knelt on Mr. Smith, so no follow-up questions were necessary,” Nilsson said in his statement.

On Oct. 22, 2010, Andrew Baker, the Hennepin County medical examiner, ruled the death a homicide. He cited Smith’s prone position, medications in his system and the Tasing as “other

significant conditions,” but wrote that the homicide was caused by a heart attack brought on by “mechanical asphyxia.”

Richard Zimmerman, then the head of the homicide unit, said in a deposition that he did not believe additional investigation or questioning was necessary after the ruling.

Zimmerman said that he did not feel it was important to ask why Smith was knelt on for more than four minutes, and that “the county attorney didn’t recommend that.”

The county attorney’s office said in a recent statement that Zimmerman and investigators never sought advice on what to ask during the investigation, adding, “Our office would never direct a police department to not ask that type of question.”

At the same time, the statement said, “We never asked for any additional investigation.” The county attorney’s office declined to elaborate on why not.

About a year after Smith's death, as the county then did with all officer-involved civilian deaths, prosecutors presented the case to a grand jury. The grand jury declined to indict.

Thirteen months later, in depositions for the wrongful-death lawsuit, Smith family lawyers asked Zimmerman for his perspective beyond the criminal case.

"Did you observe any policy violations in this case?" one lawyer asked.

"Um," he responded, before pausing for about 20 seconds. "I may have, yes."

"And what policy violations do you believe you may have observed in this case?"

"The duty to render — you know, to render aid right away."

"Did you express concern about that to anyone?"

"No." Investigating policy violations fell to Internal Affairs, Zimmerman said.

“And it was a policy violation that was obvious to you?” the lawyer asked.

“Yeah.”

The answer bewilders Smith’s sister.

“How could he acknowledge that and still there’s no accountability?” she said.

The city attorney’s office disputes that a violation occurred. “The duty to render aid cannot occur until it is safe to do so, and it was not safe to roll him over while they were recovering because they had no energy left to fight him,” Nilsson told The Post.

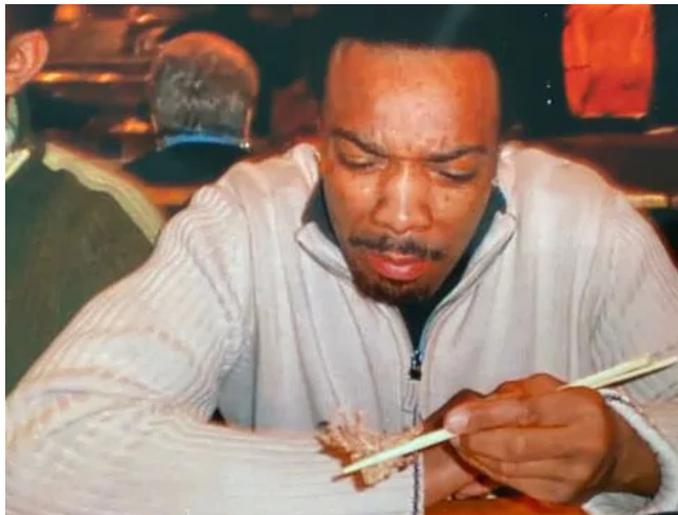
Zimmerman declined to comment for this article through the police department, as did Huffman and Klund.

When the Smith family lawyers deposed Gorman on Oct. 17, 2012, they showed him videos of their exchange with Zimmerman and with other superiors acknowledging procedural lapses in the treatment of Smith.

They asked Gorman if he agreed with their assessments.

“When I was at the scene and the situation was fluid and transpiring, I believe that I was doing the right thing in the right capacity,” Gorman said.

“In hindsight, seeing the videos and — and seeing my supervisors, some that are very high-ranking, I — I don’t believe that I did do enough.”



David Cornelius Smith's in-custody police death was ruled a homicide by a medical examiner. (Family photo)

### **‘There was never an Internal Affairs investigation’**

Shortly after the encounter with Smith, homicide detectives launched an investigation and the Internal Affairs unit began an inquiry.

Sgt. Jason Case, a then-junior Internal Affairs investigator, was assigned to look into the incident. He said in a deposition that his job was to do a “force review,” which did not allow him to interview Gorman or Callahan.

He instead looked at the statements the two had made to homicide detectives, and prepared a report for a three-member force review panel that would decide whether wrongdoing had occurred.

Smith’s lawyers obtained a copy of Case’s complete report as part of the lawsuit but were unable to share it with The Post because it was filed under a protective order.

In a deposition, Case acknowledged that his report made a preliminary finding that there had been no policy violations.

“Is it your opinion that Gorman’s kneeling on Smith’s back for 4 minutes and 30 seconds was in accordance with Minneapolis Police Department policy, practice and standards?” Case was asked at his deposition.

“As to the time, that’s a good question. As to the technique, yes,” Case responded.

“Well, are you telling me that what might be okay for 10 seconds, might not be okay for 4 minutes and 30 seconds?”

“Yeah, it’s all situational.”

Case went on to say that “there was never an internal affairs investigation. There was this force review, but that’s not the traditional IA investigation that everybody thinks there is.”

Case, through the department, declined to comment for this article.

Three deputy chiefs participated in the force review panel. Depositions suggest the panel focused on the Tasing, rather than the kneeling.

Kneeling on Smith’s back “was used as a restraint,” not force, Janeé Harteau, one of the panel members, said in her deposition. “When you do that, that wouldn’t require you to notify a supervisor that that level of force was used.”

*[From guns to neck restraint: How police tactics differ around the world]*

In a letter to the police chief on Sept. 21, 2011, the panel wrote that Gorman and Callahan had not violated any department policies.

But the deputy chiefs did suggest additional training on “excited delirium and the need to make constant assessments of a subject’s condition after a protracted fight and/or physical confrontation with police.”

The medical examiner had not mentioned “excited delirium” in his report on Smith. The term, which is controversial in the medical and law enforcement communities, refers to a heightened state of agitation that can lead to sudden death. The deputy chiefs said later in depositions that they had no specific indication that excited delirium played a role in Smith’s death.

“What did that have to do with Smith’s case?” one of the Smith family’s lawyers asked Harteau.

“I didn’t know if it was a contributing factor,” she responded. “It was certainly a topic nationally and a growing challenge for law enforcement, and we were connecting dots.”

*[‘Excited delirium’ cited in dozens of deaths in police custody. Is it real or a cover for brutality?]*

Harteau declined to comment for this article. She became chief of the Minneapolis Police Department in 2012 and held the job until the spring of 2017.



Angela Smith, sister of David Cornelius Smith, at her home in Decatur, Ga., in July. “You can’t imagine the pain I felt when I watched the video of George Floyd with the officer’s knee on his neck, and [him] on the ground by himself,” she said. (Robert Ray for The Washington Post)

### **Ten years later, looking for answers**

Angela Smith remembers being left numb the first time she watched the pen camera video. It was 2011, and she was at her office in Atlanta, where she works in city planning.

“The story that they put out was so different from what I was watching,” Angela Smith said.

Video from the YMCA, which had no audio, and from a Taser camera, which had audio but a narrower view of the encounter, did not make clear that David Smith was having trouble breathing as he was held down.

“We would have believed the story that was told about the Tasing,” his sister said. But after seeing what Callahan’s personal camera captured, she began to think: “You pin him down, you put your knee on top of him, and you don’t even check to see if he’s okay? Who does that?”

Baker, the medical examiner, said in a deposition that the pen camera video was key to determining the cause of Smith’s death.

Jeff Storms, one of the lawyers for the Smith family, said the family would have no closure without it. “I don’t know if David Smith’s death and killing ever would have been vindicated had it not been for the [pen camera] video,” he said.

The lawsuit the Smith family filed in 2011 alleged that Gorman and

Callahan violated police department policy on restraining subjects.

The lawsuit cited a portion of the department's policy manual.

“When ANY restraint technique is used on a subject, the subject shall not be left in a prone position and shall be placed on their side as soon as they are secured” — after which officers should watch for signs of medical problems, the manual said.

In its response, the city denied that the investigation was inadequate. It said that the officers acted “in a reasonable and lawful manner under the circumstances,” and that the policy language the lawsuit cited was out of context. In depositions, Gorman and Callahan said that the wording appeared in a section about a technique that involved securing someone's feet to their waist, usually with a device known as a hobble restraint. Videos do not show that technique used on Smith.

The city also denied that Smith was killed by mechanical asphyxia. It presented findings from experts who

said that drugs found in Smith's system, along with heart issues, caused his death.

The only drugs mentioned in the medical examiner's report are dextromethorphan, a cough suppressant, and chlorpheniramine, an antihistamine. The excessive levels of those drugs could have played a role in Smith's death, Baker said in a deposition taken in the Smith family case. But the kneeling on Smith was the leading factor in his death, the medical examiner said, and caused him to "regard that as a homicide."

"In hindsight one may be able to see moments when the officers could have done something different to prevent Mr. Smith's death," Elder, the police department spokesman, said in his statement. "However, given the totality of the facts of the situation, the circumstances the officers faced, Mr. Smith's actions, and the medical findings surrounding his death, it's far less clear what may have been possible."

In July 2013, nearly three years after Smith's death, Minneapolis settled with his family.

The legal agreement included a line his sister said she clung to as a victory — that the city “require its sworn police officers to undergo training on positional asphyxia” in 2014.

“I trusted the system,” Angela Smith said. “I trusted what they said, that the police officers would be retrained and they would take us seriously.”

*[Minneapolis struggled with police violence and adopted reforms. ‘And yet, George Floyd is still dead.’]*

Days after Floyd died, Storms requested records from the city about the training.

He received a handful of documents, far fewer and less detailed than he expected, including a PowerPoint presentation from 2013, a year before the promised new training.

Called “Arrest Related Death,” the presentation mentions “compression asphyxia” only once, alongside other

factors in police-custody deaths such as mental illness and drug use.

“I would have expected that after what happened to David Smith that I would have received some evidence of a large presentation that every officer received that very specifically talked about how David died and how to avoid those types of deaths in the future. I have not seen any sort of training that looks that significant,” Storms said.

The 2013 document shows that training on positional asphyxiation already had been “ongoing,” the city attorney, Nilsson, said in a statement. He said the department also added training to comply with the settlement and, in 2014, trained officers “on getting a suspect into a recovery position, which is done to prevent positional asphyxiation.” ”

In addition to expanded training, Nilsson said, the use-of-force assessment has changed in the years since Smith’s death. “It’s now understood that holding someone in a

prone position can also be dangerous,” Nilsson said.

On July 15, a team of lawyers that includes Storms filed a civil rights lawsuit against the city and the officers involved in Floyd’s death.

The city has not yet responded to the lawsuit.

Among other allegations, the suit says the city did not keep its promises to the Smith family. “Mr. Floyd was not the first black man to be killed by MPD officers under such circumstances,” the lawsuit says.

Angela Smith said she feels betrayed. “I felt like we were fooled to believe that we made a difference.”

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*Alice Crites and Julie Tate  
contributed to this report.*