Physicians for Human Rights

"Excited Delirium" and Deaths in Police Custody

The Deadly Impact of a Baseless Diagnosis

Executive Summary March 2022

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On December 23, 2020, Bella Quinto-Collins called 911, seeking help for her 30-year-old brother, Angelo Quinto, who was agitated and exhibiting signs of a mental health crisis at their home in Antioch, California. When two police officers arrived, they pulled Quinto from his mother's arms onto the floor. At least twice, Quinto's mother, Cassandra Quinto-Collins, heard him say to the officers, "Please don't kill me." Bella and Cassandra then watched in disbelief and horror as the two officers knelt on Quinto's back for five minutes until he stopped breathing. Three days later, Quinto died in the hospital.[1]

It was not until August 2021 that the family learned the official determination of cause of death: a forensic pathologist testified during a coroner's inquest that Quinto died from "excited delirium syndrome."[2]

Angelo Quinto, a Filipino-American Navy veteran, is one of many people, disproportionately people of color, whose deaths at the hands of police in recent years have been attributed to "excited delirium" rather than to the conduct of law enforcement officers. In recent years, others have included Manuel Ellis, Zachary Bear Heels, Elijah McClain, Natasha McKenna, and Daniel Prude. "Excited delirium" even emerged as a defense for the officers who killed George Floyd in 2020.[3]

An *Austin-American Statesman* investigation into each non-shooting death of a person in police custody in Texas from 2005 to 2017 found that more than one in six of these deaths (of 289 total) were attributed to "excited delirium."[4] A January 2020 *Florida Today* report found that of 85 deaths attributed to "excited delirium" by Florida medical examiners since 2010, at least 62 percent involved the use of force by law enforcement.[5] A Berkeley professor of law and bioethics conducted a search of these two news databases and three others from 2010 to 2020 and found that of 166 reported deaths in police custody from possible "excited delirium," Black people made up 43.3 percent of these cases, and Black and Latinx people together made up at least 56 percent.[6]

Above: Mourners at a birthday vigil for Angelo Quinto, who was killed by police in California in December 2020. His death was attributed to "excited delirium syndrome." Photo: Courtesy of the Quinto-Collins family

Cover: Pictures of Elijah McClain and George Floyd, both of whom died after being restrained by police, were placed in front of the Brooklyn Center, MN police station by protesters following the police shooting there of Daunte Wright in April 2021. Photo: Kerem Yucel/AFP via Getty Images

The term "excited delirium" cannot be disentangled from its racist and unscientific origins.

The term has come to be used as a catch-all for deaths occurring in the context of law enforcement restraint … and disproportionately used to explain the deaths of young Black men in police encounters.

When did the term "excited delirium" evolve to describe a distinct type of "delirium?" How did the corresponding term "excited delirium syndrome" become a go-to diagnosis for medical examiners and coroners to use in explaining deaths in police custody? What is the evidence that it is indeed a valid diagnosis? This report traces the evolution of the term from when it appears to have first been coined in the 1980s to the present. Physicians for Human Rights (PHR) reconstructed the history of the term "excited delirium" through a review of the medical literature, news archives, and deposition transcripts of expert witnesses in wrongful death cases. We evaluated current views and applications of the term through interviews with 20 medical and legal experts on deaths in law enforcement custody. Additionally, we spoke to six experts on severe mental illness and substance use disorders to better understand the context in which the term most often arises. Finally, we interviewed members of two families who lost loved ones to police violence for a firsthand account of the harms of the term's continued use.

This report concludes that the term "excited delirium" cannot be disentangled from its racist and unscientific origins. Dr. Charles Wetli, who first coined the term with Dr. David Fishbain in case reports on cocaine intoxication in 1981 and 1985,[7] soon after extended his theory to explain how more than 12 Black women in Miami, who were presumed sex workers, died after consuming small amounts of cocaine. "For some reason the male of the species becomes psychotic and the female of the species dies in relation to sex," he postulated. As to why all the women dying were Black, he further speculated, without any scientific basis, "We might find out that cocaine in combination with a certain (blood) type (more common in blacks) is lethal."[8]

After a 14-year-old girl was found dead in similar circumstances but without any cocaine in her system, Wetli's supervisor, chief medical examiner Dr. Joseph Davis, reviewed the case files.[9] Davis concluded that all of the women – 19 by that point – had actually been murdered, pointing to evidence of asphyxiation in many of the cases.[10] Investigators eventually came to hold a serial killer responsible for the murders of as many as 32 women from 1980 to 1989.[11]

"Excited delirium" is not a valid, independent medical or psychiatric diagnosis. There is no clear or consistent definition, established etiology, or known underlying pathophysiology.

The year after the suspected killer's arrest, Wetli continued to assert that at least some of the women had died from a combination of sex and cocaine: "I have trouble accepting that you can kill someone without a struggle when they're on cocaine … cocaine is a stimulant. And these girls were streetwise." He also continued to promote a corresponding theory of Black male death from cocaine-related delirium, without any scientific basis: "Seventy percent of people dying of coke-induced delirium are black males, even though most users are white. Why? It may be genetic."[12]

Wetli's grave mischaracterization of the murders of Black women in Miami – and the racism and misogyny that seemed to inform it – should have discredited his other equally racialized and gendered theory of sudden death from cocaine. Instead, the use of the term "excited delirium" grew.

A small cohort of authors, many working as researchers or legal defense experts for TASER International (now Axon Enterprise) – a U.S. company that produces technology products and weapons, including the "Taser" line of electroshock weapons marketed as so-called "less-lethal" "stun" weapons – increased the broader use of the term by populating the medical literature with articles about "excited delirium." In 2007, TASER/Axon purchased many copies of a book entitled *Excited Delirium Syndrome* written by one of its defense experts, Dr. Vincent Di Maio, and his wife Theresa Di Maio, that built on Wetli's description of "excited delirium" by describing an "excited delirium syndrome."[13] They distributed the book for free and also gave out other materials on "excited delirium" at conferences of medical examiners and police chiefs.[14] Seven years later, during a deposition, Dr. Di Maio acknowledged that he and his wife had "come up with" the term "excited delirium syndrome."[15] The term has come to be used as a catch-all for deaths occurring in the context of law enforcement restraint, often coinciding with substance use or mental illness, and disproportionately used to explain the deaths of young Black men in police encounters.[16]

PHR's review leads to the conclusion that "excited delirium" is not a valid, independent medical or psychiatric diagnosis. There is no clear or consistent definition, established etiology, or known underlying pathophysiology. There are no diagnostic standards, and it is not included as a diagnosis in any version of the *International Classification of Diseases*, the international standard for reporting diseases and health conditions, currently in its tenth revision *(ICD-10)*, or in the *Diagnostic and Statistical Manual of Mental Disorders (DSM-5)* criteria for psychiatric illness. Neither the American Medical Association nor the American Psychiatric Association currently recognize the validity of the diagnosis. In general, there is a lack of scientific data, and the body of literature supporting the diagnosis is small and of poor quality, with homogenous citations rife with conflicts of interest.

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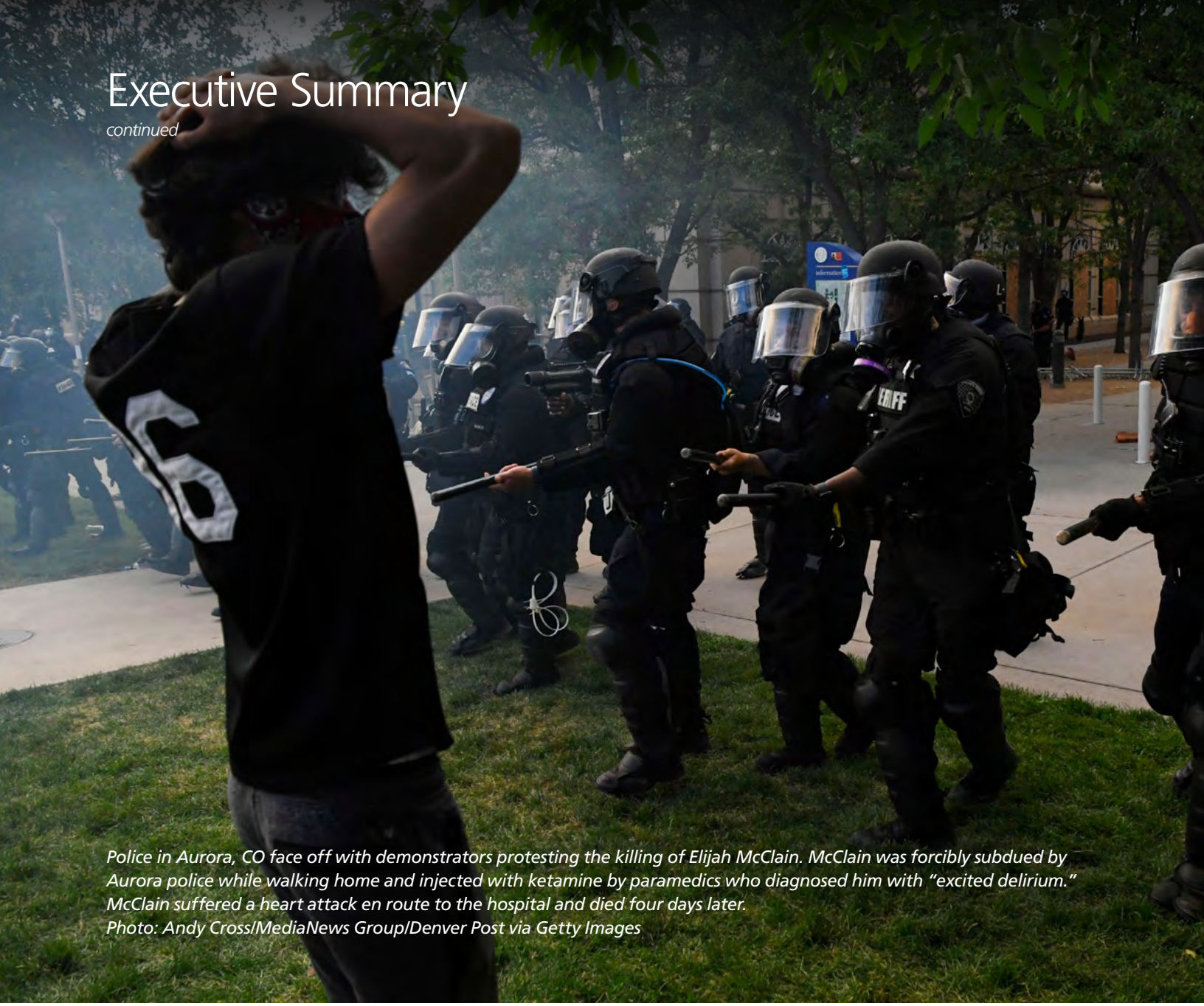

Police in Aurora, CO face off with demonstrators protesting the killing of Elijah McClain. McClain was forcibly subdued by Aurora police while walking home and injected with ketamine by paramedics who diagnosed him with "excited delirium." McClain suffered a heart attack en route to the hospital and died four days later.
Photo: Andy Cross/MediaNews Group/Denver Post via Getty Images

The foundations underpinning the diagnosis of "excited delirium" have been misrepresented, misquoted, and distorted. The *ICD-10* and *DSM-5* acknowledge delirium and its subtypes as valid, but these do not align with purported criteria for "excited delirium" and are described as stemming from underlying causes. It seems that "excited delirium" as a diagnosis and standalone cause of death was originally brought about by one or a few people's subjective opinions. The term has since taken on a meaning and life of its own, with a deleterious impact.

In our interviews with clinicians and scientists across disciplines, there was no consensus on the definition of "excited delirium." A review of the medical literature further confirms that the syndrome is not well defined or understood. The term is therefore scientifically meaningless because of this lack of consensus or rigorous evidentiary basis. Many of the studies that have been used to support the diagnosis have serious methodological deficiencies and are laden with conflicts of interest with law enforcement and TASER/Axon. Moreover, the use of "excited delirium" to explain agitated behavior raises the concern that underlying causes of these behaviors, such as a mental illness or substance intoxication, are not being diagnosed or treated. Most significantly, it is disturbing that "excited delirium" as a diagnosis has been used to justify aggressive and even fatal police tactics.

It is also concerning that "excited delirium" has come to pervade law enforcement policies and training manuals, at least in part due to the continued acceptance of the term by the American College of Emergency Physicians (ACEP) and National Association of Medical Examiners (NAME). Officers in many law enforcement agencies are trained to respond to an array of medical emergencies as "excited delirium," which in practice have included conditions that

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may not all warrant the same medical response, including heart attacks, drug or substance overdoses or withdrawals, acute psychosis, and oxygen deprivation. "Excited delirium" has also gained international reach, having received attention in the wake of in-custody deaths in Australia, Canada, and the United Kingdom, among other countries.[17]

The diagnosis of "excited delirium" has come to rest on racist tropes of Black men and other people of color as having "superhuman strength" and being "impervious to pain," while pathologizing resistance to law enforcement, which may be an expected or unsurprising reaction of a scared or ill individual (or anyone who is being restrained in a position that inhibits breathing). Presently, there is no rigorous scientific research that examines prevalence of death for people with "excited delirium" who are not physically restrained.

For the full report, go to
phr.org/excited-delirium

People who present with symptoms and signs such as agitation, confusion, fear, hyperactivity, acute psychosis, sweats, noncompliance with directions, tachycardia (rapid heart rate), and tachypnea (rapid breathing), which are too often classified by medical examiners and coroners as "excited delirium," must be recognized as having an underlying diagnosis. The specific underlying condition should be identified and treated. Too often, law enforcement officers are called as the sole first responders to medical emergencies and then use violent methods to forcibly restrain people manifesting these signs, methods – such as those that induce asphyxia from prone and other forms of restraint – that themselves may cause death. Consequently, "excited delirium," rather than law enforcement actions, is cited as the cause of death, or as a factor contributing to death, in autopsy reports.

PHR holds that "excited delirium" is a descriptive term of myriad symptoms and signs, not a medical diagnosis, and, as such, should not be cited as a cause of death. It is essential to end the use of "excited delirium" as an officially determined cause of death, particularly in cases of deaths in police custody. This is one critical step among many to stop these preventable deaths.

Origins of "Excited Delirium"

1985

Wetli and Fishbain publish study of seven restraint deaths reportedly from "excited delirium."

1988

Wetli begins to publicize cocaine/sex theory for Black women found dead in Miami.

1989

Deaths of 19+ Black Miami women found to be homicides. Despite refutation, Wetli continues to promote cocaine/sex and corresponding "excited delirium" theories.

2005

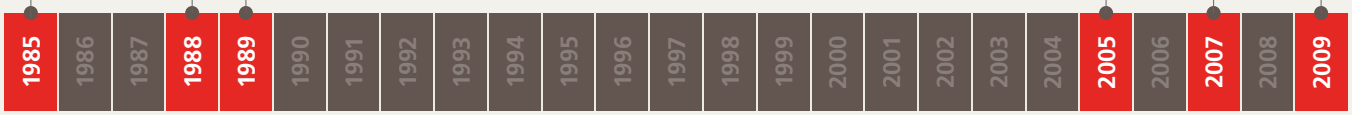
Publication of Di Maio and Di Maio book, *Excited Delirium Syndrome*.

2007

TASER purchases 1000+ copies of *Excited Delirium Syndrome* and distributes the book to forensic pathologists.

2009

Publication of American College of Emergency Physicians (ACEP) White Paper promoting "excited delirium" as a cause of death gives the term increased credibility.



The Killing of Elijah McClain

On August 24, 2019, 23-year-old Elijah McClain was walking home from a convenience store in Aurora, Colorado, when police officers unlawfully arrested him, beat him, and placed him in a chokehold.

Below: Protesters marching in Aurora, CO over the killing there of Elijah McClain in August 2019.
Photo: Michael Ciaglo/Getty Images

When paramedics arrived, they diagnosed McClain with "excited delirium" and injected him with ketamine – an anesthetic that can be fatal – in an amount indicated for someone almost twice his weight. McClain went into cardiac arrest in the ambulance on the way to the hospital. He died four days later.[17] A forensic pathologist ruled that his death was undetermined but may have been the result of "excited delirium."[18]

In September 2021, a grand jury indicted three police officers and two paramedics for McClain's death, charging them with manslaughter and criminally negligent homicide.[19] In November, the city of Aurora agreed to pay a settlement of $15 million to McClain's family.[20] The following month, the Colorado Department of Public Health and Environment published a report from its independent ketamine review committee, which stated, "The panel rejected the condition or diagnosis of 'excited delirium' because it lends itself to discriminatory practices that result in systemic bias against communities of color, and because it lacks a uniform definition and specific, validated medical criteria."[21]

Recommendations

To the American College of Emergency Physicians (ACEP):

- Revise position on "excited delirium" based on the evidence, recognizing that it is not a valid medical diagnosis and cannot be a cause of death;
  - Note the racist origins and usage of "excited delirium" and the need for further study of racial disparities in its application;
- Rescind all previous white papers that support "excited delirium" as a distinct entity separate from other forms of delirium; and
  - Be transparent about conflicts of interest in previous position statements; implement clear policies on minimizing or eliminating conflicts of interest in future statements.

To the National Association of Medical Examiners (NAME):

- Issue a statement on "excited delirium" based on the evidence, recognizing that it is not a valid medical diagnosis and cannot be a cause of death;
  - Note the racist origins and usage of "excited delirium" and the need for further study of racial disparities in its application; and
- Conduct an investigation into structural, political, and other factors affecting the independence of medical examiners when investigating deaths in law enforcement custody, and report the findings publicly.

To Individual Medical Examiners, Forensic Pathologists, and Coroners:

- Ensure that "excited delirium" is not used as either a sole or a contributing cause in death certification.

To Other Medical and Health Professional Associations:

- Study how the involvement of law enforcement in the health context impacts the relationship between patient and health care provider; seek stakeholder input; and
- Establish best practices for communicating with families regarding injuries or deaths of loved ones in law enforcement custody.

To State and Local Governments:

- Address current use of the term "excited delirium:"
  - Instruct state attorneys general to review the use of the term "excited delirium" in all instances by police and correctional services to understand how and when it is applied;
  - Call on police associations and first responders to stop disseminating "excited delirium" protocols and collect data on how the term has been applied, including racial disparities in its use;
- Improve official responses to people experiencing mental and behavioral health challenges:
  - Bolster resources and social services to address community needs, including mental health and harm reduction;
  - Take steps to ensure that medically trained professionals are the primary responders and decision-makers in the management of acute medical emergencies, including mental health and substance use disorder crises;

To State and Local Governments, *continued*

  - Invest in alternative models of mental and behavioral health crisis response, led by health professionals and/or social workers, rather than law enforcement;
- Enact changes that strengthen oversight and independence of death investigations:
  - Strengthen qualifications and training for medical examiners, forensic pathologists, and coroners;
  - Strengthen institutional protections to ensure the independence of medical examiners, forensic pathologists, and coroners from law enforcement;
  - Establish independent oversight systems and mandate independent investigations of deaths in law enforcement custody;
  - If a death is indicated on the death certificate as a death in custody, institute rigorous death-in-custody fatality reviews with explicit guidelines;
- Ban the use of neck restraint and weighted or prolonged prone restraint by law enforcement; and
- Fund studies on how the involvement of law enforcement in the health context impacts the relationship between patient and health care provider.

To the Biden Administration:

- Enforce the Death in Custody Reporting Act of 2013 (Pub. L. No. 113-242) that requires law enforcement agencies to report to the Attorney General annually on all deaths in custody within their jurisdiction;
- Enforce the 21st Century Cures Act by requiring the Department of Justice (DOJ) and others to regularly collect and report data related to law enforcement encounters and mental illness;*
- Establish national standards across all federal law enforcement agencies for clear procedures in death investigations in federal custody;
- Work with Congress, and state and local governments, to unify national standards for investigations of deaths in custody, including well-supported independent accreditation, investigatory, and oversight mechanisms; and
- Establish a unit within the DOJ to investigate all deaths in custody.

To Congress:

- Exercise Congress's oversight authority in the following ways:
  - Investigate the history and use of "excited delirium" in various jurisdictions across the United States in the context of deaths in police custody, systemic racism, and the pursuit of justice and accountability;
  - Call on the DOJ to enforce the Death in Custody Reporting Act of 2013, which requires law enforcement agencies to report to the Attorney General annually on all deaths in custody within their jurisdiction;
  - Call on the DOJ to enforce the 21st Century Cures Act, which requires the DOJ and others to regularly collect and report data related to law enforcement encounters and mental illness;*
  - Develop mechanisms for oversight and tracking of any aggressive tactics used to subjugate or control people in police custody;

* *We thank the Treatment Advocacy Center for its leadership on this.*

Recommendations

continued

To Congress, *continued*

- Pass legislation that seeks to direct national standards toward:
  - Quality assurance, and clear required procedures for death investigations and for documenting police violence on death certificates; and
  - Banning the use of neck restraint and weighted or prolonged prone restraint by law enforcement;
- Allocate funding for:
  - A mandated national database tracking law enforcement use of force, including data on mental illness, race, and ethnicity;*
  - New or expanded non-law-enforcement emergency mental health services and social services response programs on the state and local levels; and
  - Studies on how the involvement of law enforcement in the health context impacts the relationship between patient and health care provider.

* *We thank the Treatment Advocacy Center for its leadership on this.*

To the U.S. Centers for Disease Control and Prevention:

- Add a required checkbox on the U.S. standard death certificate to enable physicians to report deaths in custody;* and
- Undertake a review of deaths in custody as a matter of racial and other disparities in health, including deaths in which the term "excited delirium" was applied to describe the circumstances of death. In this review, analyze the demographics of the people to whom this term is applied, as well as the common situations in which it is invoked.

* *This recommendation was suggested to PHR by Dr. Roger Mitchell, chair of the Department of Pathology, Howard University College of Medicine.*

To UN Human Rights Mechanisms, including the Independent Expert Mechanism on Systemic Racism in Law Enforcement:

- As a function of state reporting and international oversight, study and report on the use of "excited delirium" worldwide to trace the geographic scope of the term's use as an explanation for deaths in custody and its implications for human rights.

Endnotes

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