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FOR IMMEDIATE RELEASE
July 17, 2020

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**DISTRICT ATTORNEY JIM MARTIN
ANNOUNCES HIS CONCLUSIONS FOLLOWING
INVESTIGATION INTO THE INCIDENT
OUTSIDE OF ST. LUKE'S HOSPITAL, SACRED HEART CAMPUS
ON JULY 11, 2020**

On Saturday evening, July 11, 2020, at or about 7:13 p.m. at 421 Chew Street, two Allentown police officers encountered an individual subsequently identified as Edward Borrero, Jr., 37 years of age, of Allentown. The two officers were awaiting the results of a covid test on a prisoner who had been arrested earlier on Saturday in an unrelated incident.

As the officers were standing outside of the hospital, they observed Mr. Borrero walking and stumbling in the middle of Chew Street, vomiting several times into the street, walking with a staggered gait, and screaming incoherently. At one point, he was standing in the street, jumping up and down and yelling. And, the officers observed him stagger backwards into Chew Street, causing a westward bound vehicle to slightly swerve out of his path.

After observing these actions both officers concluded that Mr. Borrero was clearly in distress and in need of medical attention and a danger to himself and possibly others. They also concluded that he was likely under the influence of alcohol or drugs. Under these circumstances, police officers have a duty to intervene pursuant to the community care-taking doctrine to provide aid to an individual who is in distress.

Mr. Borrero began pointing aggressively toward a St. Luke's security officer who was walking toward him with a vomit bag. The officers concluded that his actions were aggressive and they determined that they needed to detain him for his own safety as well as for the safety of themselves and others, including medical personnel. They intended to place him into detention so that he could be taken into the hospital. One of the officers, based upon his training, approached Mr. Borrero from behind and slightly to his left, in an effort to handcuff him. The officer was able to place a handcuff onto Mr. Borrero's left wrist while both of his hands were clenched against his head. The other officer attempted to take control of the actor's right hand and arm and to bring the left handcuffed wrist to his back in order to place both wrists into handcuffs. Mr. Borrero resisted this attempt, began lurching forward and attempted to pull away from the officers. In order to gain control, one officer took Mr. Borrero to the ground. While on the ground, Borrero continued to resist and during this time was yelling and spitting. An officer then moved his knee to Mr. Borrero's head (**not his neck**) in order to place him into emergency immobilization so as to safely, efficiently and effectively keep him from moving his body to avoid being handcuffed and placed into custody. Once that was accomplished, the officer immediately removed his knee from Borrero's head, but very briefly, had to put it back on his head again, while Borrero was spitting at the officers. At the officers' request hospital personnel provided and placed a breathable spit shield on Borrero.

After Mr. Borrero was immobilized by the handcuffs and the spit shield applied, both officers attempted to calm him and assure him that they were attempting to help him. He was speaking incoherently but appeared less agitated. He was placed into the "recovery position;" and one officer conducted a search of Mr. Borrero's person. At this time an uncapped hypodermic needle was located in his right cargo short's pocket. Although Mr. Borrero continued to yell, he was no longer resisting or spitting, and based upon his compliance, he was

then assisted to his feet, and walked by the two officers into the Emergency Room. However there he continued to resist and yell, and he was placed into four-point restraints by hospital staff.

During the time of the event outside of the hospital, much of it was witnessed by a medical technician, a nurse, and an ER physician, as well as two security officers, all personnel of St. Luke's/Sacred Heart Hospital. Mr. Borrero was treated and released from the hospital during the early morning hours of July 12. He was never jailed or placed into law enforcement's custody other than for the purposes of bringing him under control and escorting him into the hospital. However, he was charged by Summons with Public Drunkenness, Possession of Drug Paraphernalia, i.e. the uncapped hypodermic needle retrieved from his shorts pocket, and Disorderly Conduct.

I assigned a Chief County Detective and two other county detectives to investigate this incident. They have interviewed the five hospital personnel and have reviewed pertinent evidence, including video evidence of the incident. The county detectives and I have also reviewed an interview conducted by Allentown Police of Mr. Borrero, on Sunday, July 12. In that interview, he admits that he is a heroin addict and that he had used heroin and ingested powder cocaine two or so hours prior to this incident.

I have also reviewed other available evidence in this matter including a short, approximately 33 second cell phone video taken by a passerby (which was initially released to social media), as well as an approximate 9 minute, 39 second video obtained by the Allentown Police from a camera located across the street from where the incident occurred. That video has also been released publicly and provides an accurate depiction of what occurred throughout the course of the encounter. I have also reviewed the "body camera" video of both officers and the interviews conducted of the other witnesses, including the medical personnel described earlier. I have met with and discussed the findings of this investigation with the county detectives

assigned, and I have reviewed the law and the elements of the crimes with which Mr. Borrero has been charged.

Based upon my review and the totality of the circumstances surrounding this event, **I have concluded that there is absolutely no evidence to support filing criminal charges against either of the Allentown police officers involved in this incident.** I am satisfied that given Mr. Borrero's obvious intoxication and his actions, he was clearly a danger to himself and potentially to others. He was clearly agitated and non-compliant, and in order to gain control of him so that he was no longer a danger, and could be medically treated, it was necessary for the officers to restrain him. That restraint was reasonable. In attempting to handcuff Mr. Borrero, one of the officers placed his knee on Borrero's head (not on his neck). The officer's knee remained in that position for about 8 seconds and was removed as soon as he was handcuffed.

I am aware of the demands that have been made for the release of the involved officers' names. However, it is improper for a District Attorney or police to release the names of individuals who are the subject of an investigation, but have not been criminally charged. Accordingly, I will not release the names of the two involved officers.

I am also aware of the demands that the officers involved in this incident be disciplined, suspended, and/or fired from their positions. Any such determinations are outside of my purview as District Attorney and are internal personnel matters of the Allentown Police Department. However, based upon my review of the evidence and my conclusions I see no basis for any such action.

As to the charges placed against Mr. Borrero, I am satisfied that there is clearly probable cause and sufficient evidence to charge him with Possession of Drug Paraphernalia and Public Drunkenness. However, he has been charged with a Misdemeanor Grade Disorderly Conduct offense. I find that should be more appropriately graded a Summary Offense since I do not

believe that there is evidence or probable cause sufficient to determine that he actually
“intended” to cause substantial harm or serious inconvenience, given his clearly intoxicated state.
Therefore, I have advised Chief Granitz that charge will be amended to a Summary Offense at
the Preliminary Hearing.

This concludes my investigation into this matter.

James B. Martin, District Attorney

Allentown

(end)