

Is Ketamine the New Police Weapon Against Black Lives?

Angelina Chapin

June 30, 2020

By the time firefighter paramedics arrived at the scene of Elijah McClain's arrest in 2019, the 23-year-old was crying out in pain with his hands cuffed behind his back, while multiple officers held his body down on the ground. The cops had already put him in a choke hold, which restricts blood flow to the brain, while he said, "I can't breathe ... I have no gun ... I don't do any fighting. Why are you attacking me?"

The five-foot-six, 140-pound McClain had been walking down the street listening to music, when he was approached by the police. By the time the paramedics had arrived, he was lying in the grass next to his own vomit, surrounded by at least four cops barking "chill out!" and threatening to sic a police dog on him if he moved. McClain was clearly helpless, and yet the officers still saw him as a threat who needed to be further subdued.

The fire medics rolled up McClain's shirt sleeve and reportedly injected him with a 500-milligram shot of ketamine, a powerful sedative. Less than two minutes later, the 23-year-old started snoring, and after lightly slapping him a few times to make sure he was out cold, the medics lifted McClain's limp body onto a stretcher. On his way to the hospital, McClain went into cardiac arrest. Less than a week later, he was dead.

Ketamine is most commonly used as an anesthetic in hospitals and veterinary clinics, and while most physicians consider it relatively safe to use in medical settings, in certain situations it can have severe, potentially lethal side effects.

The drug blocks the brain's pain receptors and can knock people unconscious within minutes or put them in a dissociative, trancelike state. Those qualities are useful for treating chronic pain and depression, but it's also become a popular recreational drug, with people snorting it to get high or lost in a "K-hole," a state where users feel detached from reality. Several lawyers told the Cut they've recently noticed another insidious ketamine application: police officers and paramedics using the drug as another tool to terrorize Black people. In dozens of recorded cases, officers have instructed paramedics to inject civilians with ketamine, using safety as a justification. In reality, though, the sedative is often being abused just like guns and tasers.

"I think ketamine has been weaponized particularly against people of color," said Mari Newman, the lawyer for McClain's family. "The right to bodily integrity is a fundamental one which has to be respected."

“It is a new weapon,” said Kenneth Udoibok, a Minneapolis-based lawyer who specializes in police brutality cases. “It absolves the police officers of the consequences of deploying a taser.”

There is no publicly available data on how often ketamine is used during arrests in America. The issue first attracted widespread attention in 2018, when the Minneapolis *Star Tribune* published a report that revealed the city’s police department had been directing paramedics to inject people with the drug. In 2017 alone, the report said there were at least 62 documented cases in which people were sedated with ketamine during police calls. In Colorado, 90 fire departments and emergency medical agencies can legally use ketamine to treat people who are agitated or aggressive.

Newman said that since taking on McClain’s case last summer, she’s received multiple calls involving involuntary ketamine injections during arrests. Udoibok says there isn’t a month that goes by when he isn’t contacted with a similar situation. He believes the practice is “rampant,” despite the fact that medical professionals say forcing the drug on people in these settings can be dangerous, if not deadly.

The coroner’s report listed McClain’s cause of death as “undetermined,” blaming the hemorrhaging around his neck and abrasions on his body on the fact that he was “struggling with officers.” The report said that “an idiosyncratic drug reaction (an unexpected reaction to a drug even at a therapeutic level) cannot be ruled out” in reference to the ketamine dosage. But Dr. Robert Glatter, an emergency physician in New York City, said someone in McClain’s condition should likely not have been given ketamine, and a negative reaction was entirely predictable.

He said the drug is especially dangerous for people who are already having trouble getting enough oxygen to their heart. In those patients, the sedative can affect a patient’s blood pressure and heart rate, and in the most severe cases like McClain’s, can lead to cardiac arrest.

The fact that McClain had been put in a carotid hold, which left him temporarily unconscious, and suffered from anemia, a condition that places stress on the body in general, means his heart was already working overtime, according to Glatter.

He said those “conditions were right” for a dose of ketamine to stop someone’s heart.

The autopsy report said McClain was injected with a “therapeutic” amount of ketamine, though the paramedic who gave him the drug had estimated that the young man weighed almost 100 pounds more than he actually did. Glatter said 500 milliliters is a standard dose to knock someone out before surgery, but that the quantity should be reduced depending on a person’s condition and medical history.

On the way to the hospital, McClain went into cardiac arrest, though it’s unclear exactly why based on the autopsy report. A few days later his family made the decision to take him off life support, after doctors declared him brain dead.

Glatter said that while ketamine is relatively safe in a hospital environment, he has “serious doubts” about whether it should be used during arrests, where there are a lot of unknowns about a patient’s medical history. Apart from causing heart problems, ketamine could have an adverse reaction with psychiatric medication and cause seizures, hyperthermia, or serotonin syndrome, a potentially life-threatening condition in which the body has too much nerve-cell activity.

And yet the report on Minneapolis police published in the *Star Tribune* said officers spoke casually about dosing people with ketamine, saying things like “he just hit the K-hole,” or telling people they arrest that paramedics will shove “a needle in your ass.” Newman says fire medics injected McClain with ketamine based on the officers’ account that the 23-year-old was on drugs, reached for one of their guns, and fought them with herculean strength. But in reality, the video shows McClain pinned down by officers, begging for air. At one point, a cop admits he doesn’t remember feeling McClain reach for his gun, and the autopsy report showed the young man had only a small amount of marijuana in his system.

The legality of injecting someone with ketamine during an arrest depends on the circumstances. Doctors say paramedics might use the drug in the field for extreme cases where someone is being uncontrollably violent or a danger to themselves, because it can be safer than physical restraint. But in any other scenario, it would violate a person’s Fourth Amendment rights, which “prohibits the use of excessive force, and the right to be free from forcible injection,” James Craven, a Cato Institute legal scholar, told The Week.

Yet unlike instances involving the excessive use of tasers, Udoibok says these cases are hard to win. The police blame the paramedics, who in turn say they made an “independent decision to inject with ketamine,” because the person in custody was acting erratically. A court has yet to rule on whether or not the use of ketamine violates a person’s Fourth Amendment rights.

In McClain’s case, the answer sounds like a no-brainer. Still, police officers and paramedics are generally protected under “qualified immunity,” meaning there must be a past case in their jurisdiction proving that ketamine use during an arrest constitutes “excessive force.” Geoff Henley, a Texas-based criminal-defense attorney lawyer, says that in far too many cases, qualified immunity gives cops “a license to kill.”

Udoibok believes ketamine injections are motivated by racism, not safety. He thinks the drug is disproportionately used to control Black men, whom police consider a threat even if they are jogging, listening to music, or being accused of using a fake \$20 bill.

Udoibok took on a case in which officers used ketamine to subdue a construction worker who was standing outside of a hospital after visiting a relative, because they had mistaken him for someone else.

“You don’t use ketamine as a law-enforcement agent to subdue people who are exercising their First Amendment rights,” he said. “What is it that Elijah did to justify the intrusion into his person?”

The fire medic who injected McClain with ketamine claimed the 23-year-old showed signs of “excited delirium.” The term, which refers to someone who has taken drugs and is agitated or aggressive and displays exceptional strength or stamina, is not recognized by the American Psychiatric Association. “It doesn’t really exist,” said Glatter. “It’s more of a term that doesn’t really have a medical application.” Some critics say it’s become a justification for police brutality.

The Minneapolis police officer Derek Chauvin used the term “excited delirium” as the reason he knelt on George Floyd’s neck for more than eight minutes. Newman said it’s become a go-to term among police to justify their actions, regardless of a civilian’s behavior. And even though her client posed no threat to the cops who arrested him, fighting back is “a normal response when

you're trying to breathe while being crushed to death by officers applying a choke hold," not a medical condition.

Newman says that the ketamine injection will be part of a civil-rights lawsuit she plans to file. But she hopes that before then, the city of Aurora, Colorado, will investigate the case and provide justice for the family, so they can avoid going to court. Initially, the three officers involved in McClain's arrest were not charged and kept their jobs. But in the wake of George Floyd's death, the state's attorney general is now investigating the case.

If McClain's death does turn into a legal battle, Newman is confident she has the evidence to prove her client should not have been injected with ketamine.

"This is a good case for the right reasons," said Udoibok. "You can see that but for the actions of law enforcement and the paramedics, Elijah would have just been walking down the street to his home."