OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA
TODD SPITZER

January 17, 2023

Sheriff Don Barnes
Orange County Sheriff's Department
550 N. Flower Street
Santa Ana, CA 92703

Re: Custodial Death on November 14, 2021
Death of Inmate Carlos Manuel Robles Lopez
District Attorney Investigations Case # 21-005120
Orange County Sheriff's Department Case # 21-038648
Orange County Crime Laboratory Case # 21-54488

Dear Sheriff Barnes,

Please accept this letter detailing the Orange County District Attorney's (OCDA) Office's investigation and legal conclusion in connection with the November 14, 2021 custodial death of 43-year-old inmate Carlos Manuel Robles Lopez.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the custodial death of Lopez. In this letter, the OCDA describes the criminal investigative methodology employed, evidence examined, witnesses interviewed, facts discovered, and the legal principles applied to review the conduct of any Orange County Sheriff's Department (OCSD) personnel or any other person under the supervision of the OCSD in connection with this custodial death incident.

On November 14, 2021, OCDA Special Assignments Unit (OCDASAU) Investigators responded to the OCSD Intake/Release Center (IRC), where Lopez died while in custody. During the course of their investigation of Lopez's death, the OCDASAU interviewed 25 witnesses, as well as obtained and reviewed reports from the OCSD and Orange County Crime Laboratory (OCCL), incident scene photographs, jail surveillance footage, and other relevant materials.

The OCDA conducted an independent and thorough investigation of the facts and circumstances of this event and impartially reviewed all evidence and applicable legal standards. The scope and findings of this review are expressly limited to determining whether any criminal conduct occurred on the part of OCSD personnel or any other person under the supervision of the OCSD. The OCDA will not be addressing policy, training, tactics, or civil liability.

INVESTIGATIVE METHODOLOGY

Among other duties, the OCDASAU is responsible for investigating custodial deaths within Orange County when an individual dies while in custody. An OCDASAU Investigator is assigned as a case agent and is supported by other OCDASAU Investigators, as well as Investigators from other OCDA units.

Six Investigators are assigned to the OCDASAU on a full-time basis. There are additional OCDA Investigators assigned to other units in the office trained to assist when needed. On average, eight Investigators respond to an incident within an hour of being called. The investigators assigned to respond to an incident perform a variety of functions that include witness interviews, scene processing, evidence collection, and hospital investigative responsibilities as needed. The OCDASAU audio records all interviews, and the OCCL processes all physical evidence related to the investigation.

Deputy district attorneys from the Homicide, TARGET/Gangs, and Special Prosecutions Units review fatal and non-fatal officer-involved shootings and custodial death cases and determine whether criminal charges are appropriate. Thus, when the OCDASAU Investigator has concluded the investigation, the file is turned over to an experienced deputy district attorney for legal review. If necessary, the reviewing prosecutor will send the case back for further investigation.

Throughout the review process, the assigned prosecutor will consult with the Assistant District Attorney supervising the Special Prosecutions Unit of the OCDA, who will eventually review and approve any legal conclusions and resulting memos. It is also common for the case to be reviewed by several experienced prosecutors and their supervisors. Ultimately, the District Attorney personally reviews all officer involved shootings and custodial death letters.

FACTS

On November 7, 2021, Lopez was arrested by the Anaheim Police Department in connection with the murder of his parents. A witness who called 911 also told police that she knew Lopez had a mental health condition, possibly schizophrenia, and even that Lopez had attempted to jump off a balcony recently. When he was arrested, Lopez had some minor injuries to his hands and feet, for which he was transported to Anaheim Global Medical Center (AGMC). At AGMC, Lopez was nonverbal and refused all care.

On November 8, 2021, after being discharged from AGMC, Lopez was transported to IRC. The same day, Lopez was seen by an Orange County Health Care Agency (HCA) employee for an intake screening, but refused to speak during the screening.

On November 10, 2021, Lopez was seen by an HCA registered nurse for a mental health screening. This time, Lopez informed the nurse that he has been in a psychiatric hospital five times, most recently a month prior, but did not state the reason for the hospitalization. He informed the nurse that he was treated with medication, but that he only took it two times and then discontinued use of the medication. He also disclosed that he had attempted suicide three years prior, but did not elaborate, only saying, "I am a Christian and I love going to church. It was a spiritual thing." Although he denied any current suicidal ideations, HCA recommended that he be housed in the Psychiatric Unit/Mental Health Module, Mod L, and be placed on suicide protocol. An initial psychiatric evaluation was attempted by an HCA psychiatrist, but Lopez refused to speak and just sat stoically and stared. It was determined that Lopez presented with a major mental illness/disorder but the diagnosis was "Unspecified Psychosis."

On November 11, 2021, Lopez was transferred to the Mod L housing unit, and placed in a single-man cell in Sector 17, Cell 6. He was again seen by an HCA nurse, who noted he was calm, cooperative, and did not display any signs of distress or discomfort. He refused to come out of his cell to see the psychiatrist.

On November 12, 2021, Lopez was again seen by HCA staff, and a psychiatric evaluation was conducted. He was again noted to be calm and cooperative. Lopez stated that he was diagnosed with schizophrenia around 2001, but did not believe he had schizophrenia. He declined psychiatric medications, and stated, "I'm completely fine." He also denied an understanding of why he was brought to Mod L, and denied attempting suicide three years earlier.

On the morning of November 14, 2021, another psychiatric evaluation was attempted, but Lopez was standing at the door to his cell and appeared angry with an intense stare. He refused to answer any questions and demanded that the door be opened. He insisted that he was there illegally, he didn't do anything wrong, and stated that he didn't have any charges and needed to go home. It was also noted that on this occasion his cell was unkempt, while in previous screenings it was noted to be tidy.

Later that same day, at 2:46 p.m., Lopez was seen by an HCA mental health nurse, who noted that he was now cooperative. He denied having any suicidal ideations and stated. "I'm fine. I don't have any problems. I don't even know why I'm here." He verbalized an understanding that he should contact the staff should he have any suicidal thoughts.

Deputies continued to monitor Lopez as they performed safety checks at half-hour intervals. Deputies can be seen on surveillance performing safety checks on Lopez's cell at 3:04 p.m., 3:34 p.m., and 4:02 p.m., with Deputy Christopher Flores conducting the last two of those safety checks. Nothing unusual was noted during any of those safety checks.

At 4:08 p.m., surveillance footage showed Lopez standing at the door of his cell for a few seconds, before disappearing out of camera view.

Before the next scheduled safety check at around 4:30 p.m., Deputy Flores was asked by the inmate in Cell 10 for some sandals. Cell 10 was on the second floor and two doors down from Cell 6, which is where Lopez was housed. Deputy Flores brought the sandals with him at the next safety check at 4:32 p.m., but this time when he passed Lopez's cell, he saw Lopez lying on his stomach on the floor of his cell. Deputy Flores was not yet familiar with Lopez, as Lopez had only been in Mod L for a few days, but Deputy Flores knew it was not unusual for inmates to lay on the floor in the Mental Health Module. However, he did stop and knock on the door to Lopez's cell to attempt to get a response from Lopez. Lopez did not respond, but Deputy Flores noted that it appeared that Lopez was breathing. Deputy Flores opened Lopez's cell door and called out to Lopez, but still received no response. Deputy Flores noticed that there was some water on the floor towards the back of the cell, near the toilet.

Deputy Flores closed the cell door and waved to the guard station in an attempt to get their attention and alert them to the situation. Meanwhile, he proceeded to Cell 10 to give the other inmate the sandals, and then returned back to Lopez's cell. As he was returning to Cell 6, Deputy Flores flashed his flashlight at the nurses' station to try to get their attention. Again, Deputy Flores knocked on the cell door and called out to Lopez, but still Lopez did not respond.

Medical staff began to come up to the cell, as did Deputy Flores' partner, Deputy William Kenney. Deputies Flores and Kenney then entered Lopez's cell and attempted to arouse Lopez, but he did

not respond. They then pulled Lopez out of the cell so that medical staff had room to examine Lopez and administer care. Deputies Flores and Kenney flipped Lopez over on to his back, and Deputy Flores noticed that Lopez's clothing was wet around the waistband and smock top. Deputy Flores did not notice any lividity or rigor mortis.

Medical staff could not detect a pulse on Lopez, and Deputy Flores started cardiopulmonary resuscitation (CPR). Jail medical staff continued chest compressions while Deputy Flores attached the Automated External Defibrillator and Ambu bag in an attempt to resuscitate Lopez. Deputy Flores also immediately used his radio to request paramedics, while additional medical staff arrived and assisted with the lifesaving procedures. HCA nurses began an intravenous line and also administered two individual four milligram doses of Narcan through Lopez's nose in an attempt to revive him.

Jail medical staff noted that it appeared there was vomit on Lopez's face and body, and a raised red bump had formed on his right temple.

Orange County Fire Authority paramedics arrived at 4:45 p.m. They continued CPR, started an intraosseous line, and inserted an Igel airway. During the course of treatment, paramedics administered four doses of epinephrine and one dose of amiodarone, and attempted to defibrillate Lopez's heart twice. Ultimately, they were not able to successfully resuscitate Lopez, and he was pronounced deceased at 5:16 p.m.

EVIDENCE COLLECTED

The following items of evidence were collected and examined:

- Face, neck, hand, and fingernail swabs from Lopez
- Clothing from Lopez: 2 shirts, pants
- 1 Black sock on walkway between Cell 2 and Cell 4, Module L Sector 17
- 1 Black sock on north end of walkway, Module L Sector 17

AUTOPSY

On November 19, 2021, Forensic Pathologist Dr. Scott A. Luzi conducted an autopsy on the body of Lopez. According to the final diagnoses in the autopsy report, there were no major injuries on Lopez's body. Minor injuries were noted, and consisted of contusions to Lopez's upper left chest and right forearm. The following natural disease and pre-existing conditions were also noted: skin erosion on the cheek, healing abrasions on a finger and foot, cerebral edema, pulmonary congestion and edema, left ventricular hypertrophy, moderate coronary atherosclerosis, mild to moderate peripheral atherosclerosis, and nephrosclerosis.

Lopez's official cause of death was listed as "sudden unexplained death in schizophrenia," with "hypertensive and atherosclerotic cardiovascular disease" as listed conditions. The manner of death was undetermined.

EVIDENCE ANALYSIS

Toxicological Examination

A sample of Lopez's postmortem blood yielded the following results:

DRUG	MATRIX	RESULTS & INTERPRETATIONS
Ethanol/Volatiles	Postmortem Blood	Not Detected
Amphetamines	Postmortem Blood	Negative

Barbiturates	Postmortem Blood	Negative
Methamphetamine	Postmortem Blood	Negative
Cannabinoids	Postmortem Blood	Negative

BACKGROUND INFORMATION

Lopez had a State of California Criminal History record with prior arrests for the following violations:

- Trespass
- Indecent Exposure
- Assault
- Battery

THE LAW

Homicide is the killing of one human being by another. Murder, voluntary manslaughter, and involuntary manslaughter are types of homicide. To prove that a person is guilty of murder, the following must be proven:

a. The person committed an act that caused the death of another person;
b. When the person acted he/she had a state of mind called malice aforethought; and
c. He/she killed without lawful excuse or justification.

There are two kinds of malice aforethought, express malice and implied malice. Express malice is when the person unlawfully intended to kill. Implied malice requires that a person intentionally committed an act, the natural and probable consequences of the act were dangerous to human life, at the time he acted he knew his act was dangerous to human life, and he/she deliberately acted with conscious disregard for human life.

A person can also commit murder by his/her failure to perform a legal duty, if the following conditions exist:

a. The killing is unlawful (*i.e.*, without lawful excuse or justification);
b. The death is caused by an intentional failure to act in a situation where a person is under a duty to act;
c. The failure to act is dangerous to human life; and
d. The failure to act is deliberately performed with knowledge of the danger to, and with conscious disregard for, human life.

A person can also commit involuntary manslaughter by failing to perform a legal duty, if the following conditions exist:

a. The person had a legal duty to the decedent;
b. The person failed to perform that legal duty;
c. The person's failure was criminally negligent; and
d. The person's failure caused the death of the decedent.

In *Giraldo v. California Dept. of Corrections and Rehabilitation* (2008) 168 Cal.App.4th 231, 250-251, the court held that there is a "special relationship" between jailer and prisoner:

> "[T]he most important consideration 'in establishing duty is foreseeability.' [citation] It is manifestly foreseeable than an inmate may be at risk of harm.... Prisoners are vulnerable. And dependent. Moreover, the relationship between them is protective by nature, such that the jailer has control over the prisoner, who is deprived of the normal opportunity to protect himself from harm inflicted by others. This, we conclude,

> is the epitome of a special relationship, imposing a duty of care on a jailer owed to a prisoner, and we today add California to the list of jurisdictions recognizing a special relationship between jailer and prisoner."

California Government Code 845.6 codifies that the special relationship that exists in a custodial setting gives rise to a legal duty, as follows:

> "[A] public employee, and the public entity where the employee is acting within the scope of his employment, is liable if the employee knows or has reason to know that the prisoner is in need of immediate medical care and he fails to take reasonable action to summon such medical care."

Criminal negligence involves more than ordinary carelessness, inattention, or mistake in judgment. A person acts with criminal negligence when he acts in a reckless way that creates a high risk of death or great bodily injury and a reasonable person would have known that acting in that way would create such a risk. In other words, a person acts with criminal negligence when the way he acts is so different from how an ordinarily careful person would act in the same situation that his or her act amounts to disregard for human life or indifference to the consequences of that act.

An act causes death if the death is the direct, natural, and probable consequence of the act and the death would not have happened without the act. A natural and probable consequence is one that a reasonable person would know is likely to happen if nothing unusual intervenes.

There may be more than one cause of death. An act causes death only if it is a substantial factor in causing the death. A substantial factor is more than a trivial or remote factor; however, it does not need to be the only factor that causes the death.

LEGAL ANALYSIS

There is no evidence of express or implied malice on the part of any OCSD personnel or any inmates or other individuals under the supervision of the OCSD. Accordingly, the only possible type of homicide to analyze in this situation is murder or manslaughter under the theory of failure to perform a legal duty.

Although the OCSD owed Lopez a duty of care, the evidence does not support a finding that this duty was in any way breached -- either intentionally (as required for murder) or through criminal negligence (as required for involuntary manslaughter). Lopez was found in his cell unresponsive by Deputy Flores at 4:32 p.m. Deputy Flores had conducted a safety check 30 minutes prior at 4:02 p.m., and surveillance footage showed that Lopez was standing in his cell at 4:08 p.m., 24 minutes before Deputy Flores found him. The surveillance footage also shows that no OCSD personnel, nor anyone else, interacted with Lopez between the safety check at 4:02 p.m. and the safety check at 4:32 p.m., when he was found unresponsive. Once he was found, jail staff immediately began advanced lifesaving procedures and continued until paramedics arrived at 4:45 p.m. and took over the lifesaving attempts.

Thus, there is no evidence to support a finding that any OCSD personnel, or any individual under the supervision of the OCSD, failed to perform a legal duty.

CONCLUSION

Based on all the evidence provided to and reviewed by the OCDA, and pursuant to applicable legal principles, it is our conclusion that there is no evidence to support a finding that any OCSD

personnel or any individual under the supervision of the OCSD failed to perform a legal duty causing the death of Carlos Lopez.

Accordingly, the OCDA is closing its inquiry into this incident.

Respectfully submitted,

DEVIN CAMPBELL
Deputy District Attorney
TARGET/Gang Unit

Read and Reviewed by **BRETT BRIAN**
Assistant District Attorney
Special Prosecutions Unit

Read and Approved by District Attorney **TODD SPITZER**