



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 7, 2021
Death of Inmate Jeffrey Udvardy
District Attorney Investigations Case #21-005042
Orange County Sheriff's Department Case #21-037784
Orange County Crime Lab #21-54255
Orange County Coroner's Office Case #21-06568-LB

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 above-listed incident involving the November 7, 2021 custodial death of 59-year-old inmate Jeffrey Udvardy.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the custodial death of Udvardy. 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 7, 2021, OCDA Special Assignments Unit (OCDASAU) Investigators responded to Anaheim Global Medical Center (AGMC), where Udvardy died while in custody. During the course of their investigation, the OCDASAU interviewed four witnesses as well as obtained and reviewed reports from the OCSD and the Orange County Crime Laboratory (OCCL), incident scene photographs, 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

REPLY TO: ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

WEB PAGE: <http://orangecountydada.org/>

☒ MAIN OFFICE
300 N. FLOWER ST.
SANTA ANA, CA 92703
P.O. BOX 808 (92702)
(714) 934-3600

☐ NORTH OFFICE
1275 N. BERKELEY AVE.
FULLERTON, CA 92632
(714) 773-4480

☐ WEST OFFICE
8141 13TH STREET
WESTMINSTER, CA 92683
(714) 898-7261

☐ HARBOR OFFICE
4601 JAMBOREE RD.
NEWPORT BEACH, CA 92660
(949) 476-4650

☐ JUVENILE OFFICE
341 CITY DRIVE SOUTH
ORANGE, CA 92668
(714) 935-7624

☐ CENTRAL OFFICE
700 CIVIC CENTER DR. WEST
SANTA ANA, CA 92701
(714) 834-3952

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 their 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 additional experienced prosecutors and their supervisors. Ultimately, the District Attorney personally reviews all officer involved shootings and custodial death letters.

FACTS

On October 28, 2021, Udvardy, who was on probation under the supervision of Orange County Deputy Probation Officer (DPO) Sonia Rodriguez, reported to DPO Rodriguez's office. He disclosed that he had failed to enroll in an alcohol treatment program as previously mandated. DPO Rodriguez placed Udvardy under arrest at approximately 10:45 a.m. for a violation of his probation.

DPO Rodriguez transported Udvardy to the Orange County Jail for booking and processing at approximately 11:00 a.m. DPO Rodriguez completed an initial intake medical screening on Udvardy. At that initial screening, Udvardy denied having any preexisting medical conditions.

At approximately 12:02 p.m., a Registered Nurse (RN) at the Orange County Jail evaluated Udvardy. The nurse completed a comprehensive detoxification screening and reviewed a questionnaire Udvardy had completed. Udvardy told the RN he consumed alcohol more than five days a week, and that on each occasion when he did so, he would have more than five drinks. The RN noted Udvardy suffered from hypertension and symptoms of alcohol withdrawal. The RN ordered a referral for alcohol withdrawal. At approximately 12:25 p.m., Udvardy was booked into the Orange County Jail.

At approximately 12:40 p.m., Udvardy was seen by a Nurse Practitioner, who determined that he was suffering the effects of alcohol abuse. She also found that he had a severe accumulation of fluid in his abdomen that required medical attention, specifically a procedure known as paracentesis. At approximately 6:04 p.m., Udvardy was transferred to the Correctional Medical Housing Unit located at AGMC by ambulance. At approximately 6:33 p.m., the AGMC Emergency Room physician completed a medical assessment of Udvardy and confirmed that Udvardy had a history of chronic alcohol abuse, cirrhosis of the liver (degenerative liver disease), and was experiencing abdominal distension. At approximately 9:16 p.m., Udvardy was admitted into the hospital for interventional radiology therapeutic paracentesis.

On October 29, 2021, at approximately 1:00 p.m., Udvardy underwent the paracentesis procedure. Shortly thereafter, Udvardy became unresponsive and lifesaving measures were initiated. Medical personnel began performing cardiopulmonary resuscitation, administered one dose of epinephrine, and defibrillated Udvardy's heart. Udvardy was resuscitated, intubated, and sedated. Further medical tests were conducted, which showed he had cardiomyopathy (a chronic disease of the heart muscle), a common complication from chronic alcohol abuse, and cirrhosis of the liver. Udvardy was then transferred to the hospital's Intensive Care Unit for ongoing critical care management.

On November 2, 2021, Udvardy was extubated. On November 5, 2021, at approximately 9:00 a.m., Udvardy underwent another paracentesis procedure. Following the procedure, Udvardy was transferred to the medical floor for ongoing critical care management. On November 6, 2021, at approximately 1:20 a.m., Udvardy vomited coagulated blood, but remained stable.

The following day, on November 7, 2021 at approximately 2:08 p.m., Udvardy "projectile" vomited coagulated blood and became non-responsive. Medical personnel again initiated life-saving measures. Ultimately, they were unable to resuscitate Udvardy, who was pronounced deceased at approximately 2:35 p.m.

EVIDENCE COLLECTED

The following items of evidence were collected and examined:

- Bloodstain standard
- Deep muscle
- Yellow sock
- Gown
- Autopsy findings
- 56 Autopsy photographs
- 14 Post embalming photographs
- 28 photos of the hospital room and body of Udvardy

AUTOPSY

On November 10, 2021, Forensic Pathologist Scott Luzi conducted a post-mortem examination of Udvardy at the Orange County Sheriff-Coroner Forensic Science Center. Dr. Luzi determined that Udvardy suffered from multiple natural diseases and preexisting conditions including pulmonary congestion and edema, cardiomegaly, hepatic steatosis, and cirrhosis. Dr. Luzi noted no signs of significant trauma. The cause and manner of death were withheld pending toxicology tests and examination of microbiological slides. On April 21, 2022, Dr. Luzi issued an amended report

indicating death was the result of complications from cirrhosis of the liver due to chronic alcohol abuse, and that the manner of death was natural causes.

EVIDENCE ANALYSIS

Toxicological Examination

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

DRUG	MATRIX	RESULTS & INTERPRETATIONS
Levetiracetam	Postmortem Blood	Detected
Lidocaine	Postmortem Blood	Detected
Metoprolol	Postmortem Blood	Detected

BACKGROUND INFORMATION

Jeffrey Udvardy had a State of California Criminal History record that revealed prior arrests for the following violations:

- Assault with a deadly weapon
- Possession of a controlled substance
- Possession of drug paraphernalia
- Driving under the influence of alcohol and causing bodily injury to another
- Cruelty toward a child likely to cause injury or death

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 that 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 Udvardy a duty of care as an inmate, 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.

Initially on October 28, 2021, Udvardy denied having any preexisting medical conditions. As Udvardy was processed in the Orange County Jail, an RN determined he had hypertension and appeared to be suffering from alcohol withdrawal. The NP who evaluated him shortly thereafter determined Udvardy required medical treatment. She did not indicate that treatment had to be provided immediately or on an emergency basis.

Approximately five and a half hours later, Udvardy was transported to the Correctional Medical Housing at AGMC by ambulance. While there, doctors confirmed that Udvardy had a history of chronic alcohol abuse, cirrhosis of the liver, and abdominal distension, a common side effect of cirrhosis of the liver.

The following day on October 29, 2021, Udvardy underwent therapeutic paracentesis. Shortly after the procedure, Udvardy became unresponsive. The medical staff met their burden of care when they resuscitated, intubated, and sedated Udvardy. Udvardy was placed on a respirator and transferred to the intensive care unit for ongoing critical care management. On November 2, 2021, Udvardy was extubated.

On November 5, 2021, Udvardy underwent another paracentesis procedure. On November 7, 2021, Udvardy vomited coagulated blood and again became non-responsive. Despite life-saving measures being immediately performed, Udvardy was pronounced deceased.

Udvardy appears to have suffered from significant preexisting health conditions when he was taken into custody on October 28, 2021. OCSD provided immediate medical evaluation and assessment upon his intake at the Orange County Jail. He was later transported to AGMC where he was again evaluated by medical personnel and scheduled for surgical treatment the following day.

At every opportunity, all OCSD personnel, including all medical staff who initially evaluated or transported Udvardy, exercised the utmost care. All medical staff acted professionally and responsibly in their medical assessments, treatment, and handling of Udvardy. It cannot be said that any OCSD personnel acted in a manner inconsistent with how an ordinary prudent person would have acted in the same situation. There is no evidence to suggest criminal negligence.

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 owed to Udvardy.

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 Jeffrey Udvardy. The evidence shows that he died as a result of complications caused by cirrhosis due to chronic alcohol abuse and that the death was of natural causes.

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

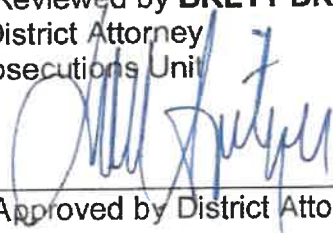
Respectfully submitted,



Shane Melzer
Senior 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**