



OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA
TODD SPITZER

November 28, 2023

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

Re: Custodial Death on April 16, 2022
Death of Inmate Larry Thomas Esquivel
District Attorney Investigations Case # 22-001164
Orange County Sheriff's Department Case # 22-012498
Orange County Crime Laboratory Case # 22-03418-TA

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 April 16, 2022 custodial death of 61-year-old inmate Larry Thomas Esquivel.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the custodial death of Esquivel. 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 April 16, 2022, OCDA Special Assignment Unit (OCDASAU) Investigators responded to Anaheim Regional Medical Center, where Esquivel died while in custody after receiving medical treatment at the jail and hospital. During the course of this investigation, the OCDASAU interviewed two witnesses, and obtained reports from the OCSD and Orange County Crime Laboratory (OCCL), as well as incident scene photographs, medical records, autopsy reports 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, civil liability, or clinical conclusions by healthcare professionals.

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

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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.

When the OCDASAU Investigator has concluded the investigation, the file is turned over to an experienced deputy district attorney for legal review. 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. If necessary, the reviewing prosecutor will send the case back for further investigation.

Throughout the review process, the assigned prosecutor will be in consultation with the Assistant District Attorney supervising the Special Prosecutions Unit of the OCDA, who will eventually review any legal conclusions and resulting correspondence. The case may often be reviewed by several experienced prosecutors and their supervisors. The District Attorney personally reviews and approves all officer involved shootings and custodial death letters.

FACTS / CHRONOLOGICAL HISTORY

On September 21, 2020, at approximately 8:09 a.m., the Irvine Police Department (IPD) arrested Esquivel for violations of California Penal Code sections 288(a), 289(j), 243.4(e)(1) and 288.7(b). Esquivel was booked into the Orange County Jail Intake Release Center (IRC) later that same day at approximately 11:38 a.m. On his medical screening forms, Esquivel reported having hypertension. He was housed at the IRC in Module M.

On November 26, 2021, at approximately 4:45 p.m., Esquivel was called to the first-floor dispensary for a medical evaluation. Medical staff determined that Esquivel was having respiratory issues as well as low blood oxygen levels. They also concluded that Esquivel needed further medical evaluation. The Orange County Fire Authority was notified and at approximately 5:15 p.m., he was transported to Orange County Global Medical Center, where his condition was stabilized.

On November 27, 2021, at approximately 2:20 AM, Esquivel was admitted into the OCSD Custodial Medical Services (CMS) Jail Ward at Anaheim Global Medical Center. Esquivel remained in the CMS Jail Ward until December 27, 2021, when he was transferred to the Theo Lacy Jail Facility.

During his time at the hospital, Esquivel was diagnosed with metastatic colorectal cancer that had metastasized to his liver and left lung. Doctors from The Oncology Institute of Hope & Innovation in Anaheim provided him with specialized cancer treatment. Esquivel's treatment plan included the following diagnostic tests, medical procedures and therapeutic interventions:

- Surgical biopsy(s)
- Colonoscopy(s)
- CT Scans
- MRI Scans
- Pulmonary and Respiratory function assessments
- Chemotherapy treatment

When Esquivel was discharged from inpatient care at Anaheim Global Medical Center on December 27, 2021, he was transferred to the Theo Lacy Jail Facility, where his treatment plan included continued outpatient visits to The Oncology Institute of Hope & Innovation, multiple cycles of chemotherapy and daily monitoring of his condition by OCSD jail medical staff.

On March 11, 2022, a Jail Incident Report was taken. It stated that on this day, Esquivel was scheduled for an off-compound medical appointment with an ophthalmologist. Esquivel notified medical staff that he refused to go. At approximately 1:00 p.m., a Sergeant interviewed Esquivel with the assistance of a Registered Nurse (RN) at the IRC Module O medical desk. Esquivel reported that there was "nothing wrong with [his] eyes" and did not want to go. The risks and benefits of cancelling his appointment was explained to him and he still chose not to go to that appointment because in his words, "I don't need it."

On March 21, 2022, Esquivel was convicted of charges related to the IPD Case (Court Case Number 20HF1493) and was sentenced to 20 years in California State Prison. After sentencing, Esquivel remained in OCSD custody pending his transfer to the California Department of Corrections and Rehabilitation.

On the morning of April 12, 2022, Esquivel was transported to the Oncology Institute of Hope & Innovation clinic for a routine checkup. While there, Esquivel developed shortness of breath and was transferred to Anaheim Regional Medical Center by Anaheim Fire Department paramedics. In the Emergency Room, medical staff determined that a mass in Esquivel's left lung had grown to the point of blocking an air exchange. Esquivel was subsequently admitted to the hospital's telemetry unit, where his condition continued to deteriorate.

On April 16, 2022, at approximately 1:45 p.m., Esquivel got out of bed to use the restroom. Esquivel returned to his bed and was hyperventilating. Esquivel went into cardiac arrest, and medical staff initiated advanced cardiovascular life support measures. Esquivel was intubated and taken to the Intensive Care Unit.

Later that same day, at approximately 4:00 p.m., Esquivel experienced a second cardiac arrest, and hospital staff again attempted to revive him. Despite their efforts, Esquivel was non-responsive and pronounced dead at 4:20 p.m.

EVIDENCE COLLECTED

The following items of evidence were collected:

- Audio-recording of interview with Anaheim Regional Medical Center RN Myrna Koenigsdorf
- Audio-recording of interview with Esquivel's wife
- Bloodstain Standard of decedent
- Muscle Standard of decedent
- Decedent's clothing
- Thirty-eight (38) photographs of the scene / decedent
- Forty-nine (49) autopsy photographs of decedent
- Eighteen (18) post embalming photographs of decedent

INTERVIEW OF RN MYRNA KOENIGSDORF

RN Koenigsdorf did not treat Esquivel, but she provided a review of his medical treatment from the date of his admission to the Anaheim Regional Medical Center at 9:46 a.m. on April 12, 2022, until his death. She did not report finding anything unusual in the medical records.

INTERVIEW OF ESQUIVEL'S WIFE

Mrs. Esquivel was interviewed concerning her husband's medical history. She reported that Esquivel had high blood pressure and was pre-diabetic, but had not been previously diagnosed with cancer. At some point while he was incarcerated, he complained about breathing issues and that his stomach would get hard sometimes so she encouraged him to see the doctor. After being evaluated by a doctor, she stated Esquivel was diagnosed in November 2021 with stage 4 colon cancer. Ms. Esquivel stated that her husband completed four months of chemotherapy.

Ms. Esquivel stated that she last saw her husband a week prior to his death and noted that he had been gasping for breath. She believed, however, that his breathing was improving. When they spoke on the phone two days later, Esquivel stated that they had rushed his sentencing because of his terminal illness. He was hoping to apply for compassionate release when he got to prison. He also stated that he was supposed to get some information on the status of his cancer at his next appointment.

AUTOPSY

On the morning of April 21, 2022, a post-mortem examination of Esquivel was conducted at the Orange County Sheriff-Coroner Forensic Science Center by Dr. Scott Luzi, a forensic pathologist. After a review of Esquivel's medical records, toxicology results, microbiological slides, Dr. Luzi found Esquivel's cause of death to be complications from metastatic colon cancer. In his October 27, 2022 report, Dr. Luzi noted Esquivel's other associated medical conditions, including pulmonary embolus due to deep vein thrombosis, hypertensive and atherosclerotic cardiovascular disease, and an enlarged heart. Esquivel's manner of death was classified as "natural."

TOXICOLOGICAL EXAMINATION

A sample of Esquivel's postmortem and antemortem blood were collected and examined for the presence of drugs and alcohol. The following results and interpretations were noted:

DRUG	MATRIX	RESULTS & INTERPRETATIONS
Etomidate	Postmortem	Detected
Metformin	Postmortem & Antemortem	Detected
Ondansetron	Postmortem & Antemortem	Detected
Ethanol/Volatiles	Postmortem & Antemortem	Not Detected
Barbiturates	Postmortem & Antemortem	Negative
Cannabinoids	Postmortem & Antemortem	Negative
Alkaline Drugs	Postmortem & Antemortem	Not Detected

The drugs detected are consistent with medical treatment. No alcohol or illicit drugs were detected in Esquivel's system at the time of his death.

BACKGROUND INFORMATION

Esquivel had a State of California Criminal History record that revealed arrests dating back to 1996 for the following violations:

- VC 23153(a) – DUI causing injury
- PC 288(a) – Lewd or lascivious act with a child under 14
- PC 289(j) – Sexual penetration with a foreign object of a child under 14
- PC 243.4(e)(1) – Sexual 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 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 other individuals under the supervision of the OCSD. Autopsy reports and photos of Esquivel revealed no evidence of external or internal injuries, only Esquivel's significant cardiovascular and oncological health conditions. Accordingly, the only types of homicide to analyze in this situation is murder or involuntary manslaughter, both under the theory of failure to perform a legal duty.

Although the OCSD owed Esquivel a duty of care, the evidence does not support a finding that this duty was in any way breached – either intentionally (as is required for murder) or by criminal negligence (as is required for involuntary manslaughter).

When OCSD became aware of Esquivel's medical complaints, staff promptly arranged for his evaluation by medical professionals and subsequent transportation for appropriate medical care. After Esquivel was diagnosed with terminal cancer in December 2021, he was referred to The Oncology Institute of Hope & Innovation for specialized cancer treatment. OCSD honored that referral and ensured Esquivel was transported to all of his appointments for assessments, scans, and treatment. There is no evidence that any medical care, treatment, or medication was withheld.

Esquivel developed shortness of breath during an appointment at the Oncology Institute of Hope & Innovation, and was transferred by paramedics to the Anaheim Regional Medical Center. Four days after being admitted to the facility, Esquivel went into cardiac arrest, and ultimately died as a result of complications from his metastatic colon cancer.

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 my 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 Esquivel.

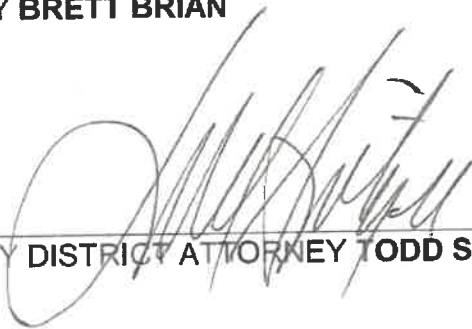
Accordingly, the OCDA is closing its inquiry into this incident.



JANINE MADERA
Senior Deputy District Attorney
Homicide Unit



READ AND REVIEWED BY BRETT BRIAN
Assistant District Attorney
Special Prosecutions Unit



READ AND APPROVED BY DISTRICT ATTORNEY TODD SPITZER