



OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA

TODD SPITZER

October 24, 2023

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

Re: Custodial Death on June 22, 2022
Death of Inmate William Garland Wiley III
District Attorney Investigations Case # 22-001902
Orange County Sheriff's Department Case # 22-020692
Orange County Crime Laboratory Case # 22-47125
Orange County Coroner Case #22-03705-TM

Dear Sheriff Barnes,

Please accept this letter detailing the Orange County District Attorney's Office's (OCDA) investigation and legal conclusion in connection with the June 22, 2022, custodial death of 87-year-old inmate William Garland Wiley III.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the custodial death of Wiley. 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 June 22, 2022, OCDA Special Assignments Unit (OCDASAU) Investigators responded to the Correctional Medical Services Unit (CMS) at the Anaheim Global Medical Center, where Wiley died in his medical bed while in custody. During the course of their investigation of Wiley's death, the OCDASAU interviewed witnesses, obtained and reviewed reports from the OCSD and Orange County Crime Laboratory (OCCL), and examined 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 on the part of OCSD personnel or any other person under the supervision of the OCSD. The

REPLY TO: ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

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OCDA will not be addressing any potential issues concerning 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 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 and approves all officer involved shootings and custodial death letters.

FACTS

On Tuesday, March 15, 2022, at approximately 1:25 p.m., OCSD deputies were dispatched to Wiley's residence in Mission Viejo regarding the suspicious death investigation of Wiley's wife. At approximately 7:35 p.m., Wiley was arrested for homicide. Wiley was transported to Orange County Crime Lab to be processed for evidence and taken to Orange County Global Medical Center (OCGMC) in Santa Ana to be medically cleared for booking into the Orange County Jail.

On March 16, 2022, at approximately 1:48 a.m., and after being medically cleared, Wiley was booked into the Orange County Jail – Intake Release Center (IRC). Due to Wiley's history of Alzheimer's and encephalopathy, Orange County Health Care (OCHC) initiated the direct admit process to transfer Wiley from the IRC to CMS at the Anaheim Global Medical Center. On March 17, 2022, Wiley was transferred from IRC to CMS, where he remained for the remainder of his incarceration.

After being transferred, CMS was provided two documents that Wiley had previously executed on May 26, 2021, relating to his medical care. The first document was a living will, instructing providers not to administer treatment that would artificially extend Wiley's life. The second document was a power of attorney, designating his daughter with the authority to make health care decisions on his behalf.

On or around June 14, 2022, Wiley developed abdominal pain, nausea, and vomiting. A computerized tomography (CT) scan showed extensive areas of pneumoperitoneum, a condition

in which gas is present within the peritoneal cavity. On June 16, 2022, Doctors noted bowel perforation and obstruction. Wiley was prescribed Bisacodyl to treat constipation. Doctors also noted a urinary tract infection and acute renal failure. Wiley's renal function had been noted as stable in previous weeks. Wiley's daughter, in consultation with a doctor, requested that no surgical interventions be performed and that her father be placed on "Comfort Care."

On June 22, 2022, at approximately 2:20 p.m., a nurse checked on Wiley and noticed his respirations were fast. At approximately 2:32 p.m., the nurse again checked on Wiley and noticed he was not breathing. Multiple nurses attempted to locate vital signs on Wiley, but none were found. At approximately 2:35 p.m., a doctor examined Wiley, and found no signs of life. The doctor pronounced Wiley deceased at 2:40 p.m.

On Tuesday, June 28, 2022, at approximately 8:00 a.m., Forensic Pathologist Dr. Scott Luzi conducted a post-mortem examination of Wiley at the Orange County Sheriff-Coroner Forensic Science Center. Dr. Luzi noted there were no major or minor injuries on Wiley, and an opinion on the final cause of death was reserved pending toxicology and microscopic exams.

On August 1, 2022, Dr. Luzi conducted a neuropathology examination on Wiley's brain. Dr. Luzi noted the examination confirmed the presence of severe neurodegenerative brain disease, with frequent senile plaques and neurofibrillary tangles in widespread brain structures, consistent with Alzheimer disease. Dr. Luzi noted there was no evidence of recent or remote traumatic brain injury.

On October 27, 2022, Dr. Luzi issued a final report identifying the cause and manner of Wiley's death. The cause of death was determined to be community acquired pneumonia along with other conditions, including Alzheimer disease. The manner of death was identified as natural.

A sample of Wiley's postmortem blood was collected for testing, and was examined for the presence of alcohol or illicit drugs. Morphine was the only drug detected in his blood.

BACKGROUND INFORMATION

Aside from his arrest on March 15, 2022, Wiley had no record of criminal history in the State of California.

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 Wiley 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). Wiley was provided medical care by OCSD from the start of his incarceration. Given his age and existing medical conditions, OCSD transferred Wiley to a hospital bed at CMS for the duration of his incarceration. OCSD worked with Wiley's daughter, who was his Health Care Agent via Power of Attorney, to meet Wiley's medical needs. Wiley's daughter signed a Do Not Resuscitate order on May 26, 2021, which OCSD provided to medical personnel at CMS. According to Forensic Pathologist Dr. Luzi, Wiley died of natural causes.

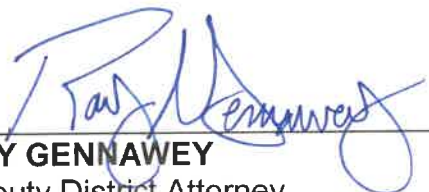
Thus, there is no evidence to support a finding that any OCSD personnel, or any individual under the supervision of the OCSD, failed to perform a legal duty.

CONCLUSION

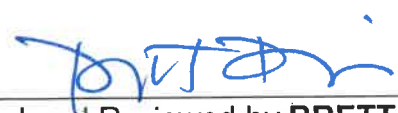
Based on all the evidence provided to and reviewed by the OCDA, and pursuant to applicable legal principles, it is our conclusion that there is no evidence to support a finding that any OCSD personnel or any individual under the supervision of the OCSD failed to perform a legal duty causing the death of William Garland Wiley III.

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

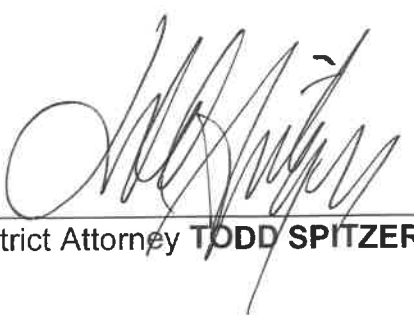
Respectfully submitted,



RAY GENNAWEY
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**