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DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA
TONY RACKAUCKAS, DISTRICT ATTORNEY

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VERTICAL PROSECUTIONS/
VIOLENT CRIMES

JENNY QIAN
DIRECTOR
ADMINISTRATIVE SERVICES

SUSAN KANG SCHROEDER
CHIEF OF STAFF

June 16, 2017

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

Re: Arya Amirzadehebrahimi Post-Custodial Death
District Attorney Investigations Case# S.A. 16-017
Orange County Sheriff's Department Case# 16-127974
Orange County Crime Laboratory Case# 16-49121

Dear Sheriff Hutchens,

This letter details the Orange County District Attorney's Office (OCDA) investigation and legal conclusion in connection with the May 27, 2016, death of 30-year-old Arya Amirzadehebrahimi, approximately 48 hours after his release from custody at Theo Lacy Jail.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the post-custodial death of Arya Amirzadehebrahimi. In this letter, the OCDA describes the investigative methodology employed, evidence examined, witnesses interviewed, facts discovered, and the legal principles applied to determine whether criminal culpability exists on the part of any Orange County Sheriff's Department (OCSD) personnel or any other person under the supervision of the OCSD.

On May 27, 2016, OCDA Special Assignment Unit (OCDASAU) Investigators were informed of the post-custodial death of inmate Arya Amirzadehebrahimi, who was pronounced dead after receiving emergency medical treatments at Hoag Hospital, approximately 48 hours after his release from custody at Theo Lacy Jail. During the course of this investigation, the OCDASAU interviewed 12 witnesses, as well as obtained and reviewed reports from the OCSD and 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 on the part of the OCSD personnel or any other person under the supervision of the OCSD. The OCDA will not be addressing any possible issues relating to 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 or immediately thereafter. An OCDASAU Investigator is assigned as a case agent and is supported by other OCDASAU investigators and 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 investigative 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.

FACTS

Amirzadehebrahimi has a long criminal history dating back to 2007 related to possession of controlled substances and drug paraphernalia. According to Orange County Jail medical screening records, Amirzadehebrahimi was a self-admitted heroin addict who used heroin every day. According to Amirzadehebrahimi's father, Amirzadehebrahimi had overdosed on heroin on March 27, 2016, and he received medical care at Saddleback Memorial Hospital before being released that same day. On March 28, 2016, Amirzadehebrahimi attended a scheduled court appearance at the Orange County Harbor Justice Center where he was remanded into the custody of OCSD for a probation violation, and he was booked into the Orange County Men's Central Jail in Santa Ana at approximately 7:07 p.m. Thereafter on March 28, 2016 Amirzadehebrahimi was medically evaluated in jail as part of the screening process for incoming inmates. At about 7:54 p.m., X- rays were taken with no acute disease demonstrated. Amirzadehebrahimi informed medical staff of medications he had been taking daily including Methadone and Klonopin for chronic back pain, and Clonazepan for insomnia and anxiety. He also advised the medical staff of his 10-year dependency on Benzodiazepine. Jail toxicology reports dated March 28, 2016, indicate that Amirzadehebrahimi tested positive for Benzodiazepine, Opiates, Methadone, Marijuana and Amphetamines. A scab on his right hand was noted by medical staff with Amirzadehebrahimi explaining that it developed from him injecting heroin on his right hand. As part of the initial screening process, Amirzadehebrahimi was also given a mental health evaluation, which was done due to the heroin overdose the day prior to the arrest. Amirzadehebrahimi firmly denied it was a suicide attempt and simply called it an accident because he just wanted to be "high on drugs."

On April 1, 2016, Amirzadehebrahimi was transferred to the Theo Lacy Jail and he was housed in a 16-man cell. There were no reported incidents or altercations while Amirzadehebrahimi was in custody. On April 6, 2016, Amirzadehebrahimi participated in a mental health follow up evaluation, but he declined any further mental health assistance and indicated that he had his own physician. At this point, Amirzadehebrahimi was discharged from further mental health services, with a notation that he was able to verbalize his needs and that he was not receptive to mental health treatment.

On April 7, 2016, Amirzadehebrahimi was medically evaluated for a common cold at his request, noting flu like symptoms and a fever. He was prescribed Ibuprofen after this medical evaluation. There are no other records of Amirzadehebrahimi requesting further medical or mental health aid for his remaining days in custody.

Regarding medications, jail records show that Amirzadehebrahimi was placed on a detoxification plan from Benzodiazepione. Amirzadehebrahimi was prescribed Ondansetron on March 29, 2016, Oxazepan on April 1, 6, 11, and 16, 2016, and Guafenesim and Ibuprofen on April 7, 2016.

On May 24, 2016, at approximately 12:01 a.m., Amirzadehebrahimi was released from the custody of OCSD. Amirzadehebrahimi's parents picked him up at approximately 1:30 a.m., and Amirzadehebrahimi complained that he did not feel well. Amirzadehebrahimi and his parents purchased food at his request and returned to their residence in the city of Irvine. Once home, Amirzadehebrahimi vomited and continued to feel ill through the next couple of days. On May 25, 2016, Amirzadehebrahimi's mother gave him one Clonazepam from her prescription at about 7:00 p.m. before Amirzadehebrahimi went to bed. On May 26, 2016, at approximately 6:00 a.m., Amierzadehebrahimi's mother found him in bed foaming at the mouth, and he appeared to be in distress. John Doe 1, Amirzadehebrahimi's father, called 911. Irvine Police Department (IPD) and Orange County Fire Authority (OCFA) personnel responded to the residence. At approximately 6:19 am, one of the responding OCFA paramedics observed Amirzadehebrahimi lying on the couch in his bedroom. Amirzadehebrahimi was unconscious, unresponsive, not breathing, and without a pulse. According to the

paramedic, Amirzadehebrahimi was in "full cardiac arrest." When the responding IPD officers arrived at Amirzadehebrahimi's home, OCFA paramedics were already on scene performing cardio pulmonary resuscitation (CPR) on Amirzadehebrahimi.

The two IPD Officers searched Amrizadehebrahimi's bedroom and recovered a hypodermic syringe and needle containing and un-identified brown substance from the cabinet next to the couch, and recovered prescription medications near the couch. The officers also recovered a plastic baggie containing an unidentified brown substance inside of a laptop case located on the ground near the couch. Officers seized the items and booked them into safekeeping at IPD.

According to the OCFA's pre-hospital care report, at approximately 6:40 a.m., Amirzadehebrahimi was still in "full cardiac arrest". He was transported via ambulance to Hoag Hospital in Irvine. Upon arrival at the hospital, Amirzadehebrahimi's medical intervention and care was turned over to the emergency room staff. While in the emergency room, Amirzadehebrami regained a pulse at about 6:48 a.m., but no spontaneous breathing was established. The attending physicians noted evidence of multiple organ failure including heart, kidney and liver. A brain CT showed evidence of severe anoxic brain injury due to a prolonged lack of oxygen to the brain. Amirzadehebrahimi's prognosis was extremely poor, and Amirzadehebrahimi's family was notified of this prognosis. On May 27, 2016, Amirzadehebrahimi's medical condition deteriorated, and at approximately 2:37 a.m., the attending physician pronounced Amirzadehebrahimi dead and all lifesaving medical intervention was stopped.

EVIDENCE COLLECTED

Interviews

A total of 12 witnesses were interviewed in this case, including eight interviews of Amirzadehebrahimi's cell mates from when he was in custody. Amirzadehebrahimi's bunk mate, John Doe 2, said Amirzadehebrahimi never had any problems while he was in custody. John Doe 2 further stated that Amirzadehebrahimi was never assaulted while in custody, nor was he ever mistreated by the deputies or other inmates. John Doe 2 stated that he never saw Amirzadehebrahimi fall or hit his head and that he never saw Amirzadehebrahimi using drugs. John Doe 2 described Amrizadehebrahimi as a "great guy" who was "happy go lucky."

Another cell mate, John Doe 3, who was familiar with Amirzadehebrahimi's family from outside the jail, indicated that he knew Amirzadehebrahimi to have a heroin addiction and drug problems. John Doe 3 however clarified that he did not see Amirzadehebrahimi consume any illegal substances or alcohol while in custody. John Doe 3 mentioned Amirzadehebrahimi having a sinus infection at the beginning but seeking medical attention for it and getting better thereafter. John Doe 3 did mention knowing about a couple of minor disagreements with other inmates that were addressed informally by the inmates without the need for physical altercations. John Doe 3, like the other cell mates, did not witness Amirzadehebrahimi falling or hitting his head. All of Amirzadehebrahimi's other cell mates provided similar accounts as provided by John Doe 2.

An interview of John Doe 1, Amirzadehebrahimi's father, was also conducted. During the interview, John Doe 1 mentioned Amirzadehebrahimi's heroin drug addiction and the medications he was taking. John Doe 1 also referenced Amirzadehebrahimi's heroin overdose the day prior to his latest arrest on May 27, 2016. John Doe 1 also referenced conversations he had had with Amirzadehebrahimi while in custody. These conversations took place during visitations or on the phone. John Doe 1 indicated that Amirzadehebrahimi had told him about drugs being available at the jail and about fights taking place. John Doe 1 confirmed that Amirzadehebrahimi told him he was not consuming drugs in jail and that he was not involved in any of the fights. When asked about whether Amirzadehebrahimi ever mentioned having problems with inmates or deputies, John Doe 1 confirmed that Amirzadehebrahimi never mentioned that to him. John Doe 1 also provided information regarding Amirzadehebrahimi stating he was not feeling well when he was picked up from the jail on March 24, 2016, and the events that took place before he called 911 in the early morning hours of May 26, 2016. John Doe 1 indicated that Amirzadehebrahimi continued not feeling well for the next couple of days and vomited several times. John Doe 1 further stated that his wife who is also Amirzadehebrahimi's mother, Jane Doe 1, gave Amirzadehebrahimi one "Clonazepam" from one of her prescriptions at about 7:00 p.m. on May 25, 2016, and that Amirzadehebrahimi then went to bed.

Physical Evidence

The following items of evidence were collected and examined:

- Hypodermic syringe/ needle
- Plastic baggie containing an unknown type brown substance
- Prescription medications
- Amirzadehebrahimi Antemortum blood
- Amirzadehebrahimi Postmortem blood
- Amirzadehebrahimi's body
- Photographs of Amirzadehebrahimi's bedroom
- Photographs of Amirzadehebrahimi at Hoag Hospital
- Autopsy photographs

EVIDENCE ANALYSIS

Autopsy

On June 1, 2016, independent Forensic Pathologist Scott Luzi from Clinical and Forensic Pathology Services conducted an autopsy on the body of Arya Amirzadehebrahimi. Following the autopsy, Dr. Luzi indicated that the preliminary examination of Amirzadehebrahimi revealed no signs of trauma. After he examined the toxicology results and the microscopic slides, Dr. Luzi concluded on March 10, 2017 that the cause of Amirzadehebrahimi's death was *acute exacerbation of chronic opiate abuse*. Dr. Luzi also listed *Bilateral Pneumonia* as a secondary condition in connection with the death. Dr. Luzi determined that the manner of Amirzadehebrahimi's death was accidental.

Toxicological Examination

The OCCL conducted toxicology analysis. A sample of Amirzadehebrahimi's antemortem and postmortem blood detected varying levels of Methadone and Citalopram in both samples. Methadone Metabolite was detected in the postmortem sample and 7-Aminoclonazepam was detected in the antemortem sample.

DRUG	POSTMORTEM BLOOD	PERIPHERAL BLOOD	LIVER	STOMACH CONTENTS	ANTEMORTEM BLOOD
Methadone	0.461 ± 0.069 mg/L	0.56+0.085 mg/L	1.89+0.29mg/kg	<0.96 mg	0.167+0.025 mg/L
Citalopram	0.229+0.041 mg/L	0.228+0.041 mg/L			<0.14mg/L
Methadone	Detected				
7-Aminocionazepam					Detected

The toxicology results revealed a potentially lethal level of Methadone in Amirzadehebrahimi's antemortem and postmortem blood. The results further revealed a less than lethal level of Citalopram in Amirzadehebrahimi's antemortem sample and a potentially lethal level in his postmortem sample.

Controlled Substances Report

The OCCL analyzed the evidence collected from Amirzadehebrahimi's bedroom including the contents of the baggie containing a brown tar substance with black ashy powder collected from Amirzadehebrahimi's laptop case, which had an approximate net weight of 5.5 milligrams of methamphetamine. A syringe collected from Amirzadehebrahimi's bedroom also contained Methamphetamine.

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 human being;
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/she acted he/she knew his/her 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 in California there is a "special relationship" between jailer and prisoner:

> "The 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:

> "Neither a public entity nor a public employee is liable for injury proximately caused by the failure of the employee to furnish or obtain medical care for a prisoner in his custody; but..... 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/she 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/she acts is so different from how an ordinarily careful person would act in the same situation that his/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

In this case, there is no evidence whatsoever 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 types of homicide to analyze in this situation are murder or manslaughter under the theory of failure to perform a legal duty

Amirzadehebrahimi was remanded into custody of the OCSD on March 28, 2016, and he was released on May 24, 2016, at 12:01 a.m., after having served a total of 58 days of actual custody time. During his time in custody, OCSD's personnel had a legal duty to protect Amirzadehebrahimi from harm from others and to care for his medical well-being. (*Giraldo v California Dept. of Corrections and Rehabilitation* (2008) 1689 Cal.App. 4th 231, 250-251; Government Code section 845.6) None of the evidence collected throughout this investigation indicates, collectively or otherwise, that OCSD personnel or other persons under OCSD's supervision breached the legal duty owed to Amirzadehebrahimi, either intentionally (as required for murder and voluntary manslaughter) or through criminal negligence (as required for involuntary manslaughter). Furthermore, there is no evidence whatsoever of express or implied malice on the part of any OCSD personnel or other individuals under the supervision of the OCSD.

Amirzadehebrahimi showed no internal or external signs of injury or trauma consistent with an attack, assault or any other type of foul play. Interviews of Amirzadehebrahimi's cell mates all indicate that they did not witness nor know of any physical altercation between Amirzadehebrahimi and any OCSD personnel. Although inmate John Doe 3 indicated in his interview that there were a couple of disagreements between Amirzadehebrahimi and other inmates, he confirmed that such disagreements were minor and were resolved by the inmates without any actual physical altercations. Other inmate interviews corroborated that there were no physical altercations whatsoever. These cellmate interviews also revealed that Amirzadehebrahimi had not suffered any falls nor head injuries during his time in custody.

Medical reports from the jail also do not indicate any major injuries observed on Amirzadehebrahimi at the time of intake nor during any of his custodial time at the Men's Central Jail nor Theo Lacy Jail. The medical report from the jail only makes mention of a small scab on Amirzadehebrahimi's right hand observed when Amirzadehebrahimi first came into custody. As indicated in the jail records, Amirzadehebrahimi indicated that the scab was from him injecting himself with heroin via his right hand. Amirzadehebrahimi was advised to notify medical staff if the scab became infected. Furthermore, there is no evidence in the medical jail records of Amirzadehebrahimi having requested nor received any medical treatment for any injuries including ones suffered from physical altercations, falls, or any accidents. The only request noted for medical services was for treatment of a common cold. Medical reports from Hoag Hospital make no mention of any major injuries observed on Amirzadehebrahimi. The only injury noted in these reports was a small lesion on one of his legs. Furthermore, Amirzadehebrahimi's autopsy did not reveal any signs of external or internal injuries or trauma.

When Amirzadehebrahimi was first taken into custody on March 28, 2016, OCSD was made aware of Amirzadehebrahimi's heroin overdose the day before his arrest. OCSD was also advised of Amirzadehebrahimi's addiction to heroin and benzodiazepine, and Amirzadehebrahimi's long term use of methadone and klonopin to address anxiety and insomnia. OCSD addressed these issues in their initial receiving medical evaluation by placing Amirzadehebrahimi on a benzodiazepine detoxification program, referring him to a mental health evaluation to address the possibility the heroin overdose was a suicide attempt, and providing him with dosages of the medications he required for maintenance as noted in the medical reports. There is no evidence whatsoever that Amirzadehebrahimi, while in OCSD's custody, abused his medications, took any legal substances, or fell gravely ill requiring immediate medical attention. From interviews with Amirzadehebrahimi's cell mates, although some were aware Amirzadehebrahimi was detoxing from heroin and knew him to be on medication, none of them indicated to have seen Amirzadehebrahimi consume any illegal substances. This was further corroborated by John Doe 1, Amirzadehebrahimi's father, who indicated that Amirzadehebrahimi told him he was not consuming drugs while in custody. As previously mentioned, the totality of the evidence shows that Amirzadehebrahimi's only request for medical aid was for a common cold. The evidence indicates that he was medically

evaluated as requested on April 7, 2016, and he was provided Ibuprofen to address his cold symptoms.

Therefore, and based on the totality of all the facts, it is clear 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 owed to Amirzadehebrahimi.

CONCLUSION

Based on all the evidence provided to and reviewed by the OCDA, and pursuant to applicable legal principles, it is our conclusion that although OCSD had a legal duty to Amirzadehebrahimi, there is no evidence that OCSD failed to carry out this duty, and there is no evidence to support a finding of criminal culpability on the part of any OCSD personnel or any individual under the supervision of the OCSD.

Accordingly the OCDA is closing its inquiry into this incident.

Respectfully submitted,

Claudia C. Alvarez
Deputy District Attorney
TARGET/Gangs Unit

Read and approved by **Ebrahim Baytieh**
Assistant District Attorney
Supervising Head of Court- Special Prosecutions Unit