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January 7, 2011

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

Custodial Death of Richard James Wilson
Inmate housed at Orange County Men's Central Jail
550 North Flower Avenue, Santa Ana
S.A. # 10-015 / FR # 10-47726

Dear Sheriff Hutchens,

OVERVIEW

This letter contains the scope and legal conclusion of the Orange County District Attorney's (OCDA) investigation of the June 28, 2010, custodial death of inmate Richard James Wilson housed at Orange County Men's Central Jail. In this letter, the OCDA describes the investigative methodology employed, evidence examined, witnesses interviewed, facts discovered, and legal analysis to determine whether criminal culpability existed on the part of any Orange County Sheriff's Department (OCSD) deputy, Santa Ana Fire Department (SAFD) personnel, or personnel under the supervision of OCSD.

On June 28, 2010, OCDA Special Assignment Unit (OCDASAU) Investigators responded to Orange County Men's Central Jail after 55-year-old inmate Wilson died while in custody. During the course of this investigation, OCDA Investigators interviewed 11 witnesses. Additionally, we obtained and reviewed witness statements, OCSD reports, laboratory and identification reports, autopsy reports, toxicology reports, incident scene photographs, security videos, and other relevant reports and materials. All police and fire personnel provided voluntary statements.

The OCDA conducted an independent and thorough investigation of the facts and circumstances of this event and impartially reviewed all evidence and legal standards available. The scope and findings of this review are expressly limited to determining whether any criminal conduct occurred on the part of the Sheriff's deputies, Santa Ana Fire Department personnel, or Sheriff's Department personnel involved. The OCDA will not be addressing policy, training, tactics, or civil liability.

INVESTIGATIVE METHODOLOGY

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 supported by additional Investigators from other OCDA units. OCDASAU consists of six full-time Investigators. There are 25 additional OCDA Investigators assigned to other units trained to assist when needed. The OCDASAU audio records all interviews and the Orange County Crime Lab processes all physical evidence.

The OCDASAU concludes the investigation and turns the file over to a deputy district attorney. A veteran deputy district attorney from the Homicide or Gang unit reviews the case and determines whether criminal charges are appropriate in fatal officer-involved shootings and custodial deaths. Throughout this process, the reviewing prosecutor may consult his or her supervisor, and this Assistant District Attorney will eventually review the legal conclusion and resulting memo. The case may also be reviewed by a Senior Assistant District Attorney, the Chief of Staff, and the District Attorney. If necessary, the reviewing prosecutor may send the case back for further investigation.

FACTS

On June 28, 2010, at approximately 6:30 p.m., Wilson was pronounced deceased at Orange County Men's Central Jail after being booked into the sheltered living module of the facility earlier that day. Wilson suffered from hepatitis B, hepatitis C, high blood pressure, alcoholism, and seizures.

On March 24, 2010, and May 17, 2010, an Orange County Superior Court judge revoked Wilson's probation and ordered a probation violation warrant for Wilson's arrest for failing to appear to provide proof of completing a domestic violence program and the required community service on a domestic violence conviction. On April 14, 2010, Wilson was arrested on the March 24, 2010, warrant. The following day, Wilson appeared in court and was released from custody. On June 27, 2010, at approximately 5:45 p.m., Anaheim Police Officers Derek Trusk and Stephen Salicos arrested Wilson for the May 17, 2010, probation violation warrant. The officers transported and booked Wilson into the Anaheim City Jail. During the booking process, Wilson told Anaheim City Jail staff that he had hepatitis B and C, high blood pressure, and seizures. Wilson also stated he had not taken the medication for his high blood pressure.

On June 28, 2010, Anaheim Police Correctional Supervisor Edward Bennett transported and booked Wilson into the OCSD Intake/Release Center (IRC). Upon completion of the booking process, Wilson was assigned to Module O, Sheltered Living, Cell 5, Bed 3, due to his medical condition. Deputy Paul Harter escorted Wilson to his cell at approximately 11:35 a.m. The cell was already occupied by Inmate #1, who was an amputee and wheelchair dependent. Deputy Harter described Inmate #1 as quiet and cooperative. According to Inmate #1, Wilson appeared tired and mentioned that he had not taken his medication for two days. Both Wilson and Inmate #1 went to sleep. Sometime later, Inmate #1 was awoken by a "thump" and thought Wilson had slipped. He turned and saw Wilson lying face down on the floor, partially covered by his blanket. Inmate #1 called out to Wilson, received no response, and went back to sleep, thinking Wilson was asleep.

Inmate #1 woke up between 3:00 p.m. and 3:30 p.m. when dinner was served and noticed Wilson was still lying in the same position. Believing Wilson was still sleeping, he threw the sack lunch and milk in Wilson's direction. Inmate #2, assigned to the cell directly north of cell 5, heard someone say, "Are you going to eat that?" and "grab your lunch", while dinner was being served. Inmate #2 believed he heard these statements from cell 5, but never heard anything else.

At approximately 6:20 p.m., Deputies Brian Fischer and Harter began facilitating a day-room change for inmates housed in odd numbered cells. Upon arriving at cell 5, Fischer saw Wilson lying face down on the ground, his head positioned near the door, and his blanket under his waist and down around his feet. Although it was not uncommon to find inmates sleeping on the floor, Fischer tapped on the cell door and asked if Wilson was alright. Wilson did not respond. Inmate #1 did not respond from his bunk, where he also appeared to be asleep.

Fischer opened the cell door using his jail key. Once inside, Fischer reached down to touch Wilson's arm; he noticed red blotches and that Wilson felt cool to the touch. Fischer again asked Wilson if he was alright and again received no response. Fischer then attempted to roll Wilson over and noted blood around his nose and mouth. Fischer activated the emergency button/intercom system and advised the monitoring deputy that there was a possible dead body inside cell 5.

Deputy Robert Canales arrived at cell 5 and immediately checked Wilson for a pulse. After failing to detect a pulse, Canales yelled out, "No pulse, starting CPR." Deputy Canales observed Wilson to be cyanotic and without visible respirations, and his skin felt cold and moist.

Canales began chest compressions while Correctional Medical Services Registered Nurse (RN) Aaron Warren used the ambu-bag for ventilations. During this time, RN Melissa Brady attached the automatic external defibrillator (AED) to Wilson's chest. The AED advised her to continue CPR. CPR was administered by various SAFD deputies and medical staff. Warren unsuccessfully attempted to insert an intravenous line of saline into Wilson's left arm. The AED completed several cycles and each time advised not to administer a shock to the patient and to continue CPR.

At approximately 6:25 p.m., SAFD personnel arrived at the jail and deputies escorted them to Wilson. SAFD personnel conducted primary and secondary assessments of Wilson and noted Wilson's pupils were fixed and dilated, observed signs of lividity, and determined Wilson was dead before their arrival. SAFD personnel connected Wilson to their cardiac monitor, which indicated that Wilson was asystole. Wilson was absent lung sounds, heart tones, and a pulse. Wilson's vital and physical signs indicated no signs of life.

At approximately 6:30 p.m., paramedics Brian Sandlin and Ken Keeting pronounced Wilson deceased.

AUTOPSY

On Tuesday June 29, 2010, at approximately 2:21 p.m., Riverside County Chief Forensic Pathologist, Doctor Richard Cohen, conducted the post-mortem examination at the Orange County Sheriff-Coroner Forensic Science Center. The case was sent to an independent coroner outside of Orange County to avoid any conflict. Dr. Cohen concluded that the manner of death was natural and the cause of death was hypertensive cardiovascular disease. Wilson suffered from other significant conditions including chronic alcoholism, chronic substance abuse, and chronic hepatitis viral infection. A toxicological examination detected the presence of methamphetamine, methadone, methadone metabolite, methorphan, nordiazepam, chlordiazepoxide, oxazepam, and demoxepam.

EVIDENCE ANALYSIS

TOXICOLOGY

The Orange County Crime Lab conducted a toxicological exam on Wilson's post-mortem blood sample. The results were:

<i>DRUG</i>	<i>MATRIX</i>	<i>RESULT</i>
ETHANOL	POST-MORTEM BLOOD	NONE DETECTED
METHAMPHETAMINE/AMPHETAMINE	POST-MORTEM BLOOD	DETECTED
COCAINE	POST-MORTEM BLOOD	NEGATIVE
OPIATE/MORPHINE	POST-MORTEM BLOOD	DETECTED
CANNABINOIDS	POST-MORTEM BLOOD	DETECTED
NORDIAZEPAM	POST-MORTEM BLOOD	DETECTED

THE LAW

Homicide is the killing of one human being by another. Murder, manslaughter, and involuntary manslaughter are types of homicide.

To prove that a person is guilty of murder, the following elements must be proven:

1. The person committed an act that caused the death of another person;
2. When the person acted he had a state of mind called malice aforethought; and
3. He 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 deliberately acted with conscious disregard for human life.

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.

A person can commit murder by his failure to perform a legal duty. A legal duty must be owed to the decedent by the person for the decedent's help or care. The person must then have failed to perform that duty. The failure to act is the same as doing a negligent or injurious act.

A killing that would otherwise be murder is reduced to voluntary manslaughter if the person killed someone because of a sudden quarrel or in the heat of passion. CALCRIM 570 defines "sudden quarrel or heat of passion". A killing that would otherwise be murder is also reduced to voluntary manslaughter if the defendant killed a person because he acted in imperfect self defense.

For a definition of imperfect self defense, see CALCRIM 571. When a person commits an unlawful killing but does not intend to kill and does not act with conscious disregard for human life, then the crime is involuntary manslaughter. The difference between other homicide offenses and involuntary manslaughter depends on whether the person was aware of the risk to life that his actions created and consciously disregarded that risk. An unlawful killing caused by a willful act done with full knowledge and awareness that the person is endangering the life of another, and done in conscious disregard of that risk, is voluntary manslaughter or murder. An unlawful killing resulting from a willful act committed without intent to kill and without conscious disregard of the risk to human life is involuntary manslaughter.

In custodial death situations, the most likely application of the law would be a review of involuntary manslaughter based on a failure to perform a legal duty. To prove that a person is guilty of this crime, the following elements must be proven:

1. Person had a legal duty to the decedent;
2. Person failed to perform that legal duty;
3. Person's failure was criminally negligent; and
4. Person's failure caused the death of the decedent.

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. For an explanation of causation, see CALCRIM 582. The language is the same found above for causation under murder.

LEGAL ANALYSIS

There is no evidence of malice, a failure to perform a legal duty, or criminal negligence on the part of any of the OCSD deputies, SAFD personnel, Anaheim Police deputies, Anaheim City Jail personnel, or any other inmates or staff under the supervision of OCSD deputies. Wilson's natural death was caused by hypertensive cardiovascular disease. Orange County Sheriff's deputies and SAFD personnel performed all appropriate advanced life saving procedures. There was no evidence of foul play on the part of any person who came into contact with Wilson prior to his death. It is OCDA's conclusion that the evidence does not support a finding of criminal culpability on the part of any deputy, fire department personnel or medical staff member.

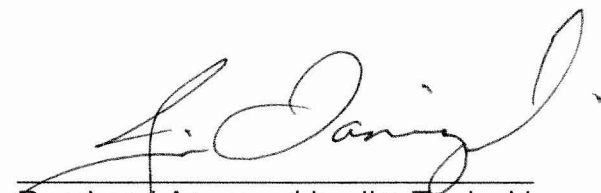
CONCLUSION

Based on all evidence provided to the OCDA, the entirety of the facts contained in the reports reviewed, and pursuant to the applicable legal principles, it is my legal opinion that the evidence does not support a finding of criminal culpability on the part of any OCSD deputy or personnel, SAFD personnel, or other inmate. It is our conclusion the manner of death was natural and the cause of death was hypertensive cardiovascular disease.

Very truly yours,



LARRY YELLIN
Senior Deputy District Attorney
Homicide Unit



Read and Approved by Jim Tanizaki
Senior Assistant District Attorney