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ADMINISTRATIVE SERVICES

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CHIEF OF STAFF

March 7, 2011

Chief Jay R. Johnson
Newport Beach Police Department
870 Santa Barbara Drive
Newport Beach, CA 92660

Custodial Death of Inmate William Robert Wedgeworth
Newport Beach Jail
S.A. # 10-019 / FR # 10-49316

Dear Chief Johnson,

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the Orange County District Attorney's (OCDA) investigation of the July 31, 2010, custodial death of inmate William Robert Wedgeworth at the Newport Beach City Jail (NBCJ). 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 Newport Beach Police Department (NBPd) officer or any other person under the supervision of NBPd.

On June 28, 2010, the OCDA Special Assignment Unit (OCDASAU) Investigators responded to NBCJ after inmate Wedgeworth died while in custody. During the course of this investigation, OCDA Investigators interviewed 13 witnesses, obtained and reviewed NBPd reports, Orange County Crime Lab (OCCL) reports, incident scene photographs, and other relevant reports and materials.

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 NBPd officers or personnel. 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 additional OCDA Investigators assigned to other units trained to assist when needed. The OCDASAU audio records all interviews and the OCCL processes all physical evidence.

REPLY TO: ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

WEB PAGE: www.OrangeCountyDA.com

☒ MAIN OFFICE
401 CIVIC CENTER DR. W.
P.O. BOX 808
SANTA ANA, CA 92701
(714) 834-3600

☐ NORTH OFFICE
1275 N. BERKELEY AVE.
FULLERTON, CA 92631
(714) 773-4460

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8141 13TH STREET
WESTMINSTER, CA 92683
(714) 896-7261

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341 CITY DRIVE SOUTH
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(714) 935-7624

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401 CIVIC CENTER DR. W.
P.O. BOX 808
SANTA ANA, CA 92701
(714) 834-3952

The OCDASAU Investigator concludes the investigation and it is then assigned to a deputy district attorney. Veteran deputy district attorneys from the Homicide or Gang Units review fatal officer-involved shootings and custodial death cases and determine whether criminal charges are appropriate. Prosecutors from the Special Prosecutions Unit review the non-fatal officer-involved shooting cases. 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 Saturday, July 31, 2010, at approximately 10:08 p.m., Newport Beach Fire Department (NBFD) paramedics arrived at the NBCJ. NBPD officers escorted the paramedics to Wedgeworth's cell. Paramedics observed several NBPD personnel standing near Wedgeworth, who was lying on his back on the floor and did not appear to be breathing. Wedgeworth appeared bluish around the mouth and red around the neck. Wedgeworth's tongue was swollen and his skin was pale.

Directly above the open door of the cell was a partial white bed sheet, which was tied to a metal bar above the cell door. The knot was positioned around a fixed metal bar with the remaining portion of the bed sheet hanging toward the floor. Wedgeworth's body was just inside the open door of the cell. Directly underneath Wedgeworth's neck was the other half of the white bed sheet, rolled in a loose tube-like fashion with a knot at one end. He had apparently hung himself with a bed sheet while in his cell.

NBFD paramedics conducted primary and secondary assessments and cardiopulmonary resuscitation. Paramedics connected Wedgeworth to the cardiac monitor, which indicated Wedgeworth had no heartbeat. Wedgeworth's vital and physical signs showed that he was not revivable.

At approximately 10:09 p.m., paramedics pronounced Wedgeworth deceased.

A background investigation revealed the following: Wedgeworth, who was married and had a family, failed to remain consistently employed for the past seven years. He was unable to maintain his composure while out in public and had problems interacting with others. Wedgeworth continually refused to seek treatment despite numerous pleas from loved ones.

Approximately four years prior to Wedgeworth's death, his father passed away. Wedgeworth went into a depressed state during which he remained in bed for days, refused to interact with other people, and isolated himself from family and friends. Over time, Wedgeworth's depression evolved into a rage, evidenced by his destructive and verbally abusive behavior. Wedgeworth's bouts of anger lasted only briefly on some occasions, while lasting throughout the day on other occasions.

NBPD responded to Wedgeworth's residence on numerous prior occasions regarding domestic disputes. The incident that led to his last arrest by NBPD began on Friday, July 30, 2010, between 10:00 p.m. and 11:00 p.m., when a neighbor heard Wedgeworth yelling at his wife and throwing objects. On Saturday, July 31, 2010, at approximately 11:00 a.m., the same neighbor heard Wedgeworth yelling at his wife and breaking objects inside the residence again. At approximately 3:34 p.m., Mrs. Wedgeworth called the NBPD and reported the domestic disturbance. NBPD Officers Matthew Wood and Sam Sa responded to the residence.

Mrs. Wedgeworth told the police that Wedgeworth had charged at her, grabbed her hair, and then threw her onto the dining room couch. She then fell and hit her head on an object on the couch.

Wedgeworth swore at her and spit on her as he pinned her to the floor and grabbed her hand. Wedgeworth demanded she stop him from continuing to swear in front of the children. Wedgeworth grabbed her hand, forced it into a fist, and began hitting himself in the face with her fist saying, "you got to protect your kids."

Mrs. Wedgeworth told NBPB officers that she did not want Wedgeworth locked up, but requested they "take him somewhere." She also informed the officers that Wedgeworth had a history of mental illness and was not taking his medication. According to Officer Sa, when he asked Mrs. Wedgeworth if she wanted her husband arrested for domestic violence, she initially stated she did not know what to do with Wedgeworth, then stated she wanted her husband arrested.

Officer Wood eventually handcuffed Wedgeworth for officers' safety and placed him in the rear seat of the police vehicle. According to Sgt. Spencer Arnold (who was also at the scene), after Officer Wood handcuffed Wedgeworth, Wedgeworth ceased his verbally aggressive behavior and began to cry. Wedgeworth repeatedly told the officers that he only wanted to take his children to Legoland and asked the officers to apologize on his behalf to his children because he could not take them to Legoland. From the back seat of the police vehicle, Wedgeworth yelled that his arrest was a police conspiracy engineered by his wife. Wedgeworth also loudly expressed his belief about an ongoing affair between his wife and "the cops."

Sgt. Arnold filled out an Emergency Protective Order (EPO), then explained an EPO to Mrs. Wedgeworth and informed her that her husband would probably remain in custody over the weekend. Mrs. Wedgeworth responded that she wanted her husband to return home when he was released and did not want an EPO if it was going to prevent him from coming home. Neither Officer Sa nor Officer Wood observed or learned of anything indicating Wedgeworth could be a danger to himself during the contact. Further, Sgt. Arnold was never informed that Wedgeworth previously attempted suicide or that Wedgeworth was mentally unstable. Sgt. Arnold also believed that Wedgeworth was not suicidal because he appeared to be planning future events with his children.

At approximately 4:36 p.m., Reserve Officer Jonathan Sunshine transported Wedgeworth to the NBCJ and then escorted Wedgeworth in. Next, Custodial Officer Daran Kanbara contacted Wedgeworth and asked the medical screening questions. According to Officer Kanbara, Wedgeworth did not appear upset. Wedgeworth cooperatively answered each question Officer Kanbara posed to him. Wedgeworth indicated that he had no developmental, psychological, or substance abuse problems. Further, Wedgeworth indicated that he had never tried to harm himself or take his own life, nor was he currently thinking of doing so. Wedgeworth was the only inmate in the city jail from the time he entered the facility until the following day.

At approximately 5:57 p.m., Custodial Officer Diane Harris scanned the bar code on cell door A, beginning the hourly record of Wedgeworth's welfare checks. At approximately 7:00 p.m., Officer Kanbara conducted a welfare check on Wedgeworth. Officer Kanbara observed Wedgeworth lying on the bottom bunk, his eyes open, looking at Officer Kanbara. At approximately 8:01 p.m., Custodial Officer Tim Stewart observed Wedgeworth lying on the bottom bunk, partially covered with a jail issue blanket.

At approximately 8:59 p.m., Wedgeworth called his residence collect from the telephone in cell block A. All inmate phone calls at NBCJ are recorded, but jail personnel do not monitor or overhear inmate calls. A subsequent review of these recorded calls revealed that Wedgeworth spoke to his wife and asked if she was going to get him out of jail. She informed him that she could not get him out of jail because she did not have the money. Wedgeworth demanded to speak with his daughters to tell them, "my last goodbyes." When Wedgeworth spoke to his 8-year-old daughter, Wedgeworth

informed her that he was not going to live through the night, she was never going to see him again, and if he could not spend time with his girls at Legoland, he was not going to keep living. His daughter said goodbye to Wedgeworth and he then asked to speak with Mrs. Wedgeworth again. Wedgeworth then told his wife, "I am doing it, it's your choice." He continued, "This is the last moments on the world and you are not going to give me love." She told Wedgeworth she loved him but he needed help. Wedgeworth responded, "How can I get help when you just killed me? I am dead now. Maybe you will get it when you are at the funeral." Next, Wedgeworth instructed her to have his son sue the City of Newport Beach. Finally, Wedgeworth told his wife, "You knew it was going to happen and you let it happen." Wedgeworth then said goodbye and hung up the phone.

Mrs. Wedgeworth believed Wedgeworth was distraught over his arrest, but based on similar comments Wedgeworth had made on previous incidents, she did not believe he would commit suicide. She also believed Wedgeworth would be unable to harm himself while in police custody. She did not inform NBPD of this conversation.

At approximately 9:00 p.m., Officer Kanbara performed the hourly welfare check and observed Wedgeworth sitting in the cell and holding the phone to his ear. At approximately 10:00 p.m., Officer Kanbara performed the hourly welfare check and observed Wedgeworth hanging from the cell bars with a white sheet around his neck. Wedgeworth's body faced the cell door, his eyes were partially open, and his hands were by his side. Wedgeworth was not wearing a shirt. Officer Kanbara entered the cell and confirmed Wedgeworth needed medical attention. Officer Kanbara yelled for Officer Stewart and Officer Harris to activate the emergency alarm and to notify other officers of the medical emergency.

Officer Stewart entered the cell block and Officer Kanbara told him to retrieve a knife to cut the sheet from the metal bars. Officer Stewart returned with a knife and together with Officer Kanbara, cut the sheet above Wedgeworth's neck and lay Wedgeworth on his back on the concrete floor. Officer Stewart noticed Wedgeworth's tongue appeared swollen and his body appeared lifeless. Officer Stewart removed the sheet from Wedgeworth's neck and unsuccessfully attempted to detect a pulse. Officer Kanbara ran to the jail office and instructed Officer Harris to notify NBFD of the medical emergency.

AUTOPSY

On Aug. 2, 2010, at approximately 9:15 a.m., Orange County Coroner Chief Forensic Pathologist Anthony Juguilon conducted the post-mortem examination of Wedgeworth at the Orange County Sheriff-Coroner Forensic Science Center. After completing the post-mortem examination, Dr. Juguilon concluded that the cause of death was affixation caused by hanging.

TOXICOLOGY

The OCCL analyzed Wedgeworth's post-mortem blood samples for prescription drugs and commonly abused drugs. The following drugs and concentrations were detected:

DRUG	MATRIX	RESULT
Methamphetamine	Postmortem Blood	2.1 mg/L
Amphetamine	Postmortem Blood	0.26 mg/L
Methamphetamine	Brain	3.5 mg/kg
Amphetamine	Brain	0.33 mg/kg
Tetrahydrocannabinol Carboxy-Acid	Postmortem Blood	Detected

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 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.

A person can also commit murder by his failure to perform a legal duty, if the following conditions exist:

- 1) The killing is unlawful (i.e., without lawful excuse or justification),
- 2) The death is caused by an intentional failure to act in a situation where a person is under a duty to act,
- 3) The failure to act is dangerous to human life,
- 4) The failure to act is deliberately performed with knowledge of the danger to, and with conscious disregard for, human life.

A person who fails to perform a legal duty can be guilty of the crime of involuntary manslaughter if the following conditions exist:

1. The person had a legal duty to the decedent,
2. The person failed to perform that legal duty,
3. The person's failure was criminally negligent, and
4. The 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.

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 NBPD officer nor any inmates or other individuals under the supervision of NBPD. Thus, the only possible type of homicide to analyze in this situation is murder or involuntary manslaughter under the theory of failure to perform a legal duty.

Although NBPB/NBCJ personnel owed Wedgeworth a duty of care, the evidence does not support a finding that this duty was breached – neither intentionally (as required for murder) nor through criminal negligence (as required for involuntary manslaughter). NBPB officers conducted medical screening interviews and hourly welfare checks. The officers did not have any reason to believe Wedgeworth posed a danger to himself. Wedgeworth cooperatively answered all medical screening questions and indicated he had never tried to harm himself, nor was he intending to harm himself in the future. There was no evidence of foul play on the part of any person who came into contact with Wedgeworth prior to his death.

CONCLUSION

Based on all evidence provided to and reviewed by the OCDA and pursuant to applicable legal principles, it is my legal opinion that the evidence does not support a finding of criminal culpability on the part of any NBPB officer nor any individual under the supervision of NBPB. It is my conclusion that Wedgeworth died as a result of affixation caused by suicidal hanging.

Respectfully,



Sonia Balleste
Senior Deputy District Attorney
Homicide Unit



Read and Approved by Dan Wagner
Assistant District Attorney
Head of Homicide Unit