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January 13, 2014

Chief Raul Quezada
Anaheim Police Department
425 S. Harbor Blvd.
Anaheim, CA 92805

Re: Custodial Death on November 1, 2012
Death of Inmate Alan Douglas Bluck
District Attorney Case # S.A. 12-027
Anaheim Police Department Case # 12-161328
Orange County Crime Laboratory Case # 12-56259
Orange County Sheriff-Coroner # 12-04229-RE

Dear Chief Quezada,

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 Nov. 1, 2012, custodial death of inmate Alan Bluck.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the custodial death of Bluck. 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 Anaheim Police Department (APD) officer or any other person under the supervision of APD.

On Nov. 1, 2012, OCDA Special Assignment Unit (OCDASAU) Investigators responded to APD regarding the custodial-related death of Bluck. The OCDA conducted an independent and thorough investigation of the facts and circumstances of this event and impartially reviewed all evidence and legal standards. The scope and findings of this review are expressly limited to determining whether any criminal conduct occurred on the part of any APD officer or personnel. The OCDA will not be addressing 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 investigative functions that include witness interviews, scene processing and 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 a veteran deputy district attorney for legal review. 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 assigned to the Special Prosecutions Unit review the non-fatal officer-involved shooting cases for possible criminal filings. Throughout the review process, the assigned prosecutor will be in consultation with his or her supervisor, and this Assistant District Attorney will eventually review and approve any legal conclusions and resulting memos. The case may often be reviewed by multiple veteran prosecutors, their supervisors, the Chief of Staff, and the District Attorney. If necessary, the reviewing prosecutor may send the case back for further investigation.

FACTS

On Oct. 31, 2012, APD Officer Juan Frias was assigned to patrol wearing a standard APD uniform. At approximately 2:35 p.m., Officer Frias was patrolling the area of La Palma Avenue and Magnolia Avenue when he was flagged down by an unknown citizen in reference to an intoxicated male. The male, later identified as Bluck, was lying on the grass near the sidewalk. Bluck was motionless and unresponsive.

Officer Frias and APD Officer Sean McCune made contact with Bluck as he was lying on the grass. Officer Frias asked Bluck if he was okay. Bluck looked at Officer Frias with an unsteady gaze and mumbled a few words. Officer Frias noted that Bluck's eyes were red and watery, his clothes were disheveled, and he was emitting a strong odor of an unknown alcoholic beverage. Officer Frias asked Bluck if he knew his whereabouts but received no answer. Officer Frias asked Bluck if he could stand and walk, and Bluck shook his head and attempted to stand. Bluck made several attempts to stand but fell to the ground.

During the contact with Bluck, Officer Frias noted an empty Vodka bottle on the ground next to him. Based on Officer Frias' observations of Bluck's actions and inability to answer questions, Officer Frias believed that Bluck was intoxicated to the extent that he was unable to care for his own safety or the safety of others. Officer Frias placed Bluck under arrest per California Penal Code (CPC) 647(f) – public intoxication. Officer Frias transported Bluck to the Anaheim detention facility for the booking process.

At approximately 2:40 p.m., APD Officer Andre Pedroza escorted Bluck to the "Pre-ID" station, where they were met by Correctional Officer Bruce Warner. Officer Warner asked Bluck a series of standardized medical related questions as part of the booking process. During the questioning, Bluck declared that he did not suffer from any medical conditions. Officer Warner noted that Bluck required Officer Pedroza's assistance for balance and appeared to have been "extremely intoxicated." Officer Warner documented Bluck's state of intoxication during the medical screening process.

After Officer Warner concluded the medical screening, Bluck was escorted by Officer Pedroza and Officer Matthew Beck to sobering cell #1. At 6:15 p.m., Officer Miranda responded to sobering cell #1 to wake Bluck in order to complete the booking process. Officer Miranda yelled out Bluck's name one or two times before Bluck woke and walked out of his cell without any assistance.

According to Officer Miranda, during the fingerprinting and photographing process, Bluck did not appear to be distressed, did not complain about any health issues, was cooperative and was able to follow all of Officer Miranda's requests during the process.

According to the jail surveillance video, during the fingerprinting process, Bluck told Officer Miranda that, about one month ago, he broke his right hand and had seen a doctor for care.

At 6:25 p.m., Officer Miranda completed the booking process and placed Bluck into cell #19, which was empty, waiting for his pending release with the citation that Officer Frias completed.

Officer Miranda explained that normally an intoxicated person would be released four to six hours after their arrest. For the safety of the individual, they typically will wait until daylight hours to release a transient that is an alcoholic, such as in Bluck's case. According to Officer Miranda, he conducted all of the hourly physical checks from 7:00 p.m. to midnight. Officer Miranda believed that Bluck was asleep on the bottom bunk of his cell for this entire time.

On Nov. 1, 2012, at approximately 1:00 a.m., while conducting an hourly check, Officer Miranda noted that Bluck was standing near the cell door. Officer Miranda asked Bluck why he was awake; Bluck did not respond and was then told to go to sleep. At approximately 2:00 a.m., while conducting an hourly check, Officer Miranda saw that Bluck was seated on one of the stools with his back toward the cell door. There was no communication between the two.

Correctional Officer Greg Blocher conducted a video jail check at approximately 1:30 a.m. and 2:30 a.m. of the four occupied jail cells, 11, 12, 18 and 19. At the time of the video checks, all inmates appeared to have been behaving normally and showed no signs of distress.

At approximately 2:50 a.m., while conducting his hourly physical check, Officer Miranda noted that Bluck was lying on the bottom bunk on his left side with his left cheek pressed against the bed. His eyeglasses were up on his forehead and his skin color was "grayish." Officer Miranda tapped on the cell door but Bluck did not respond. Officer Miranda left to locate Correctional Supervisor Ed Bennett.

Supervisor Bennett and Officer Miranda returned, opened the cell door, entered and physically shook Bluck, but received no response. Supervisor Bennett pushed on Bluck's shoulder to position him flat on his back. As he did so, Supervisor Bennett observed Bluck was absent breath and his flaccid arms fell to his sides. Officer Miranda immediately left the cell to go to a nearby telephone, where he requested a dispatcher to summon paramedics to the jail facility.

Bluck was transported by paramedics to Western Medical Center – Anaheim (WMCA), where an emergency room physician doctor and his team took over resuscitation efforts. Bluck was intubated by the emergency room physician and cardiopulmonary resuscitation (CPR) continued.

Bluck's pupils were fixed, and he had signs of lividity on his back. The doctor noticed a defect or deformity on the left side of Bluck's chest, which, according to the doctor, happens sometimes during CPR. The doctor believed that if Bluck had this condition prior to being unconscious, he would have complained of pain in his chest.

At 3:41 a.m., WMCA personnel checked Bluck's blood sugar, and it was critically low. They then administered one ampule of dextrose 50. During the course of Bluck's treatment, the doctor administered five rounds of epinephrine and CPR continued for a total of 20 to 21 minutes.

At approximately 3:50 a.m., the doctor pronounced Bluck deceased.

AUTOPSY

On Nov. 2, 2012, at approximately 9:35 a.m., Orange County Coroner Forensic Pathologist Dr. Etoi Davenport conducted the post-mortem examination of Bluck at the Orange County Sheriff-Coroner Forensic Science Center. After completing the post-mortem examination, Dr. Davenport concluded that the cause of death was alcoholic cardiomyopathy with subacute ischemic changes due to chronic alcohol abuse.

EVIDENCE ANALYSIS

TOXICOLOGY:

Bluck's post-mortem blood samples were analyzed for common drugs of abuse and alcohol. The following results were obtained:

DRUG	MATRIX	RESULTS
Ethanol	Postmortem blood	0.18 %
Nordiazepam	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, it 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;
- 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.

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 APD officer or any inmates or other individuals under the supervision of the APD. APD officers, individuals under the supervision of APD and the involved emergency personnel all performed and acted appropriately under the circumstances. Further, there was no evidence of foul play on the part of

any person who came into contact with inmate Bluck prior to his death. 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 APD owed inmate Bluck duty of care, the evidence does not support a finding that this duty was breached -- either intentionally (as required for murder) or through criminal negligence (as required for involuntary manslaughter).

Inmate Bluck died due to alcoholic cardiomyopathy with subacute ischemic changes due to chronic alcohol abuse. During the time Bluck was in APD custody, he did not complain of pain or display outward signs that he was experiencing medical problems. He was monitored and appropriately cared for. Once he was observed to have symptoms of medical issues, paramedics were immediately summoned. At no time did any APD officer, staff, or other individual under the supervision of APD act with malice toward Bluck, fail to act or fail to perform their legal duty.

CONCLUSION

Based on all the evidence provided to and reviewed by the OCDA and pursuant to applicable legal principles, there is no evidence to support a finding of criminal culpability on the part of any APD personnel or any individual under the supervision of APD. Evidence shows that Bluck died as a result of alcoholic cardiomyopathy with subacute ischemic changes due to chronic alcohol abuse.

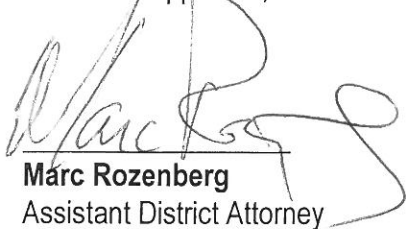
Accordingly, the OCDA is closing its inquiry into this incident.

Respectfully Submitted,



Elisabeth Hatcher
Deputy District Attorney
Gang Unit

Read and Approved,



Marc Rozenberg
Assistant District Attorney
Head of Gang Unit