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May 20, 2014

Chief of Police Carlos Rojas
Santa Ana Police Department
20 Civic Center Plaza
Santa Ana, CA 92701

Re: Custodial Death on August 26, 2013
Death of Raymond Curtis Runge
District Attorney Case # S.A. 13-021
Santa Ana Police Department # 13-23419
Orange County Crime Laboratory Case # FR 13-51930

Dear Chief Rojas,

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 Aug. 26, 2013, custodial death of 44-year-old arrestee Raymond Curtis Runge.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the custodial death of arrestee Runge. 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 Santa Ana Police Department (SAPD) officer or any other person under the supervision of the SAPD.

On Aug. 26, 2013, OCDA Special Assignment Unit (OCDASAU) Investigators responded to Western Medical Center-Santa Ana (WMC-SA) after Runge died while in custody and while being treated at the hospital. 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 SAPD officers 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, evidence collection, and hospital investigative responsibilities as needed. The OCDASAU audio records all interviews, and the Orange County Crime Lab 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. 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

Background

Runge had a long history of substance abuse, including the use of methamphetamine and cocaine. According to his parents, Runge had abused drugs and alcohol for over 30 years, while also suffering from attention deficit disorder (ADD). Runge was prescribed Provigil to alleviate his ADD; however, he had not taken the medication for at least one year prior to his death.

In June of 2012, Runge admitted himself into a sober living facility to receive treatment for his addiction to alcohol and methamphetamine. The following June, Runge left the sober living facility over the objection of his counselor, who did not feel that Runge was ready to reenter the community. Runge subsequently moved to a trailer park in the City of Costa Mesa. Runge's parents lived in Idaho, but they tried to keep in contact with Runge on a regular basis to monitor his sobriety.

Summary of Events

On Aug. 22, 2013, Runge's parents arrived in Orange County to "check on" Runge. The previous week, Runge had left several unintelligible voicemail messages for his parents, leading them to believe that Runge was using drugs again.

Upon their arrival in Orange County, they met with Runge at the Quality Suites hotel (Quality Suites) in Santa Ana. Runge and his mother purchased three 22-Ounce cans of beer and a bottle of rum for Runge at his request. Runge's parents justified the purchase as a means to calm Runge down before he checked himself back into a rehabilitation program. Over the next two days, Runge visited his parents at the Quality Suites, and they noticed that he became increasingly agitated as he consumed alcohol.

On Aug. 24, 2013, in the late afternoon, Runge walked around the hotel grounds with his mother, and she noticed that Runge was displaying paranoid behavior. Runge complained that he was being followed and his hands shook uncontrollably. Sometime after midnight, Runge left his parents' hotel room. Shortly thereafter, a janitor at the Embassy Suites hotel (Embassy Suites) saw Runge in the parking lot of the hotel. The Embassy Suites was directly south and adjacent to the Quality Suites. Runge startled the janitor by yelling at him "for no apparent reason." Believing that Runge was going to assault him, the janitor shined his flashlight in Runge's face to "scare him away."

Runge walked toward the front entrance of the Embassy Suites and the janitor followed him into the lobby. Runge yelled incoherently at the front desk clerk and asked if he could rent a room for the night. The clerk noticed that Runge appeared disheveled and had a demeanor of "being out of it," so he told Runge that no rooms were available. Runge exited the Embassy Suites and stood near the front entrance.

SAPD Officers Cory Slayton and Danny Alcala had responded to an unrelated call for service earlier in the evening at the Quality Suites, and they walked to the front lobby of the Embassy Suites to use the restroom. Officers Slayton and Alcala observed Runge standing outside the entrance of the Embassy Suites holding what appeared to be a 24 ounce can of beer

and talking to himself. Runge was looking around "for no apparent reason" and he continually "fidgeted" with his body.

As Officers Slayton and Alcala walked toward the entrance, Runge ran south through the Embassy Suites parking lot, yelling incoherently. Runge then ran eastbound on Dyer Road, toward Grand Avenue, out of the officers' view. Officers Slayton and Alcala were surprised by Runge's behavior, as they had not initiated contact with him.

At approximately 12:32 a.m., Officer Slayton used his police radio to contact SAPD Officer Joshua Gripentrog, who was in the area of the Embassy Suites earlier in the evening. Officer Slayton asked Officer Gripentrog to look for Runge in the area of Grand Avenue and Dyer Road. Officers Slayton and Alcala walked south in the Embassy Suites parking lot and headed east on Dyer Road. As they approached Grand Avenue, they looked east and saw Runge standing on the edge of the southbound 55 Freeway overpass at Dyer Road. Runge yelled incoherently at Officers Slayton and Alcala and seemed to be upset. Runge then lifted one of his legs and straddled the concrete guardrail. Runge continued to yell at Officers Slayton and Alcala below and told them, "I can make it." Officers Slayton and Alcala believed that Runge was going to jump off the 55 Freeway overpass to commit suicide.

Officers Slayton and Alcala pleaded with Runge not to jump off the overpass, and told him that he would not survive the fall. They instructed Runge to stop what he was doing and remain still. Officer Alcala walked back to the Quality Suites parking lot and returned with his patrol vehicle. Officer Slayton initiated a radio broadcast of Runge's location and requested the presence of additional police units. Runge then turned around and ran eastbound across the southbound lanes of the 55 Freeway. Runge seemed to lose his balance and stumble as he ran out of view.

At approximately 12:33 a.m., numerous SAPD officers responded to the area of the 55 Freeway at Dyer Road to assist with the incident. As SAPD officers responded, Runge ran east to west, and then west to east, across the northbound and southbound lanes of the 55 Freeway. SAPD officers lost sight of Runge as he ran west over the freeway's center median.

Officer Alcala parked his patrol unit near the center median of the northbound 55 Freeway, north of Dyer Road. Officer Alcala looked west over the concrete barrier separating the northbound and southbound lanes of the 55 Freeway and saw Runge lying on his stomach in the carpool lane. Runge shouted, "Hit me! Hit me!" at passing vehicles. Officer Alcala drew his Taser and pointed it at Runge.

SAPD Officer Chris Shynn and Corporal Gonzalo Garcia arrived on the scene, scaled the concrete center median, and headed toward the carpool lane of the southbound 55 Freeway. Officer Alcala kept his Taser pointed at Runge while Officer Shynn and Corporal Garcia attempted to handcuff Runge. Officer Shynn and Corporal Garcia secured a handcuff on Runge's left wrist, but were unable to secure his right wrist because Runge's right arm was tucked underneath his body. Officers Alcala, Shynn, and Corporal Garcia ordered Runge to release his right arm and to stop resisting, however, Runge refused to comply or respond to their commands. Runge's arms were rigid and his skin was warm and damp to the touch. Runge was unresponsive to the officers' orders and he continuously made grunting noises.

SAPD Acting Sergeant Gil Hernandez arrived on the scene and instructed Officer Alcala to use his Taser on Runge if necessary. Officer Alcala holstered his Taser and grabbed Runge's left arm and held it behind Runge's back. Officer Shynn and Corporal Garcia both attempted to pull on Runge's right arm, but they could not dislodge it from underneath his body. Runge was large in stature and "extremely strong." Officer Shynn became concerned for all parties' safety because there were no patrol units blocking traffic in the carpool lane.

As the struggle continued, Officer Shynn decided to apply a Carotid Control Hold (CCH) on Runge to gain his compliance. Officer Shynn placed his knees on the ground on the right side of Runge's body and slid his right arm under Runge's chin. Officer Shynn placed the inside of his elbow at the center of Runge's neck. Officer Shynn used the inside of his right forearm to compress the left carotid artery on Runge's neck, and his right bicep to compress the right carotid artery. Officer Shynn applied the CCH on Runge for approximately three to five seconds. Runge's body lost its rigidity and his right arm "relaxed."

Corporal Garcia grabbed Runge's right wrist and removed it from underneath his body. Corporal Garcia placed Runge's right wrist behind his back and handcuffed it to Runge's left wrist. Runge stopped struggling and he appeared compliant. Officer Shynn did not know if Runge was rendered unconscious during the use of the CCH.

Approximately one minute later, Runge started to kick his legs and push his body upward "in an attempt to get away." Officer Shynn placed his right knee on the upper right area of Runge's back to make sure that Runge could not stand. Corporal Garcia used both of his hands to push down on the top of Runge's head in order to prevent Runge from "banging his head" on the asphalt. Officer Alcala pushed down on Runge's legs to prevent him from standing.

SAPD Officers Jim Correal, Bob Guidry, and Gripentrog arrived on the scene. Officer Gripentrog assisted Officer Alcala in holding Runge's legs. Officer Correal switched positions with Corporal Garcia and pushed down on Runge's head. Corporal Garcia stood up and monitored the incident.

Runge continued to resist by pushing his body up and kicking his legs, so the officers decided to place a Ripp Hobble Restraint (RHR) device around Runge's legs. Officers Guidry and Gripentrog attempted to place the RHR device on Runge; however, they had a difficult time securing it because Runge continued to kick his legs. Eventually, Officer Guidry and Gripentrog were able to place the RHR device around Runge's ankles and cinch it tight. The RHR did not stop Runge from kicking his legs and moving his body, so the officers decided to apply a second RHR device on Runge to completely immobilize his legs and body. Officer Correal reminded the officers not to place their weight on Runge because it could lead to "positional asphyxiation," causing Runge to stop breathing.

At approximately 12:41 a.m., Acting Sergeant Hernandez used his police radio to request fire and ambulance response in anticipation of Runge needing medical attention. As Officer Gripentrog attempted to place the second RHR device around Runge's waist, Runge stopped resisting and his body "went limp." The officers immediately turned Runge onto his right side to assess his breathing and they noticed that Runge's face was grey in color and his pupils were non-responsive to light. The officers turned Runge onto his back and performed cardiopulmonary resuscitation (CPR).

At approximately 12:43 a.m., Corporal Garcia used his police radio and advised dispatch that Runge had stopped breathing. SAPD Forensic Specialist Mark Waldo arrived on the scene with a ventilator bag and delivered rescue breathes to Runge, while Officers Gripentrog, Guidry, Correal, and Shynn took turns delivering chest compressions on Runge. The officers performed CPR for approximately eight minutes before they noticed that Runge regained a pulse and was breathing spontaneously. Runge's pupils became reactive to light and he made moaning sounds. The officers rolled Runge onto his side into the "recovery position" and waited for paramedics.

At approximately 12:50 a.m., Orange County Fire Authority (OCFA) Engine 6 arrived on the scene. OCFA Paramedic Jimmy Huang noticed that Runge was apneic (not breathing) and pulseless (in a state of cardiac arrest). Approximately six minutes later, CPR was reinitiated and Runge was loaded into an ambulance via a gurney. An intravenous line was established in Runge's arm and he was administered saline solution. An endotracheal tube was inserted in Runge's mouth using a Combi-tube (airway) and 100% positive pressure oxygen was administered via a Bag Valve Mask. One round of epinephrine was administered to Runge intravenously, consisting of a 1 milligram (mg) dose.

At approximately 1:01 a.m., Paramedic Huang accompanied Runge in the back of the ambulance en route to WMC-SA. CPR was applied to Runge continuously throughout the ambulance transport, and three additional 1mg doses of epinephrine were administered intravenously.

At approximately 1:11 a.m., the ambulance arrived at WMC-SA, and the care of Runge was released to the WMC-SA Emergency Room (ER) personnel. Runge was intubated immediately and CPR was continued by ER personnel. The attending physician monitored Runge's treatment, and Runge received the following intravenous medications per advanced life saving protocol (ACLS):

- Dopamine drip
- Sodium bicarbonate (2 amps)
- One lite drip of D5W at 100 cc/per hour
- 0.9% Saline

Runge regained a pulse and occasionally breathed spontaneously; however, he remained in a comatose state. A Foley catheter was inserted, and a presumptive test of Runge's urine indicated the presence of amphetamines. The attending physician provided approximately one hour of "critical care" to Runge upon his admission into the ER, and she made the following observations and diagnosis:

- Admitted in full arrest
- Multi-organ failure
- Rhabdomyolysis
- Pupils fixed and dilated
- No spontaneous movement of the upper or lower extremities
- Occasional spontaneous breathing present

Runge was transferred to the Intensive Care Unit (ICU), where he was placed on a respirator and received hypothermia treatment. While in ICU, the following examinations were conducted on Runge:

- CT scan of the abdomen and pelvis- revealed an enlarged liver (20 cm in length)
- CT scan of the brain- loss of gray/white matter and cortical sulci
- Chest X-ray- heart appeared normal in size

During Runge's stay in the ICU, he received the following additional medications:

- Levetiracetam, 500 mg, 12 hours drip
- Kayexalate, 120 ml
- Tylenol, 650 mg
- Ativan, 0.5 ml
- Zofran, 2 ml
- Albuterol Sulfate, 3 ml

At approximately 8:30 a.m., a cardiologist evaluated Runge's condition. The cardiologist believed that a possible cause of Runge's asystole was the presence of toxins, such as amphetamines. The presence of enzymes in Runge's blood stream was not consistent with a myocardial infarction; rather, it was consistent with hypoxemic damage from being asystolic. The cardiologist's prognosis of Runge's medical condition was "very grave."

At approximately 1:45 p.m., a neurologist examined Runge's brain activity. The neurologist made the following observations of Runge's condition:

- Gasping and tachypneic respirations
- Pupils midpoint and non-reactive to light
- Funduscopic examination disclosed sharp disk margins
- No oculocephalic reflex
- No corneal reflex
- No facial movements with noxious stimuli
- No gag or cough reflex

- No response to noxious stimuli in any of the four extremities
- Flaccid throughout
- No deep tendon reflexes
- Plantar response neutral bilaterally
- No snout or glabellar reflex

Given these results, the neurologist gave the following diagnosis:

- Severe anoxic encephalopathy, secondary to cardiorespiratory arrest
- Probable drug overdose with amphetamines

It was the neurologist's opinion that Runge's prognosis for survival was very poor, and, if Runge lost respiratory effort, he would be considered "brain dead."

At approximately 7:30 p.m., a pulmonologist examined Runge's condition in the ICU and concluded that Runge was "respirator dependent" and most likely would not survive a sudden cardiac arrest.

On Aug. 26, 2013, at approximately 2:13 a.m., Runge's heart rhythm was asystole and his breathing was apneic. The attending ER physician was called to the ICU to evaluate Runge. Previously, Runge's parents had signed a "Do Not Resuscitate" directive.

At approximately 2:42 a.m., the ER physician pronounced Runge deceased.

AUTOPSY

On August 27, 2013, Doctor Etol Davenport, a forensic pathologist with the Orange County Coroner's Office, conducted a post-mortem examination of Runge's body and noted that there were no external traumatic injuries. The examination revealed that Runge had several fractured ribs on his left side. Doctor Davenport noted that the fractures of the ribs were consistent with a patient who had received CPR. Doctor Davenport also noted a small laceration on the liver which was also consistent with a patient who had received CPR.

Dr. Davenport viewed an X-ray photograph taken of Runge's body and saw a small foreign object lodged inside the right side of his torso. During the autopsy, Doctor Davenport found a small oxidized metallic object, measuring approximately one-half inch in diameter, behind Runge's right lung. The object was consistent with an expended bullet. Doctor Davenport noticed a large amount of tissue grown around the object, which led Doctor Davenport to believe it had been in Runge's body for a significant amount of time. There were no visible entry bullet wounds on Runge's body. It was Doctor Davenport's opinion that the bullet found in Runge's body was unrelated to his cause of death. It was later discovered through Runge's mother that Runge had been shot in the back approximately 20 years ago, and that the bullet was never removed.

Doctor Davenport observed that Runge had an enlarged heart and liver. Doctor Davenport diagnosed Runge's heart and liver as being enlarged due to hypertension, possibly caused by chronic drug and/or alcohol abuse. Doctor Davenport also noted hemorrhaging from trachea, but concluded it was most likely a result of medical treatment by paramedics during intubation.

Following the autopsy, Doctor Davenport determined the preliminary cause of death as cirrhosis and hemorrhaging of the liver, pending microscopic and toxicological examinations. On Dec. 22, 2013, after reviewing toxicological and microscopic reports, Doctor Davenport determined the cause of death as complications of methamphetamine intoxication.

EVIDENCE ANALYSIS

Toxicological Examination

A sample of Runge's postmortem blood yielded the following results:

DRUG	MATRIX	RESULT
Ethanol	Antemortem Blood	0.02% (w/v)
Methamphetamine	Antemortem Blood	1.1 mg/L
Amphetamine	Antemortem Blood	0.024 mg/L
Methamphetamine	Postmortem Blood	1.9 mg/L
Amphetamine	Postmortem Blood	0.12 m/L
Levetiracetam	Postmortem Blood	Detected
Methamphetamine	Brain	4.5 mg/kg
Amphetamine	Brain	0.19 mg/kg

Runge's Criminal History

Runge's criminal history revealed numerous arrests for violations including, but not limited to, possession of a controlled substance and driving under the influence of alcohol/drugs.

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; 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.

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

In this case, there is no evidence whatsoever of express or implied malice on the part of any SAPD officer or other individuals under the supervision of the SAPD. 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 SAPD owed arrestee Runge a 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). According to the available evidence, all the SAPD officers involved in this incident acted appropriately and to some degree heroically in their attempt to save Runge's life when he was on the freeway putting himself and other motorists in danger.

Runge suffered from mental illness and chronic substance abuse. Runge put himself and the community in danger when he ran across the 55 Freeway, and SAPD officers were compelled to restrain him. Then, when confronted by SAPD officers, Runge was non-compliant and confrontational. Multiple officers and restraint tactics were needed to subdue Runge. Moreover, the officers made a concerted effort to avoid asphyxiating Runge while struggling to immobilize him. Thus, there is no evidence to support a finding that any SAPD personnel or any individual under the supervision of the SAPD 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, there is no evidence to support a finding of criminal culpability on the part of any SAPD personnel or any individual under the supervision of the SAPD. The evidence shows that Runge died as a result of complications of methamphetamine intoxication.

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

Respectfully submitted,

Ebrahim Baytieh
Senior Deputy District Attorney
Assistant Head of Court - Homicide Unit

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