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November 20, 2013

Acting Police Chief Jerry Price
La Habra Police Department
150 N Euclid St.
La Habra, CA 90631

Re: Death of Alan Paul Ford on November 25, 2012
District Attorney Case # S.A. 12-029
La Habra Police Department DR # 12-6061
Orange County Crime Laboratory Case # 12-57459

Dear Chief Price,

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. 25, 2012, death of Alan Paul Ford.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the death of Ford. This is not a custodial death case, nor is it an officer-involved shooting. Rather, Ford evaded arrest in his garage and committed suicide by ligature hanging in his home while La Habra Police Department (LHPD) officers were stationed outside the home waiting for backup. Nevertheless, the OCDA has investigated Ford's death, as it occurred while police were present at his residence. In this letter, the OCDA describes the investigative methodology employed, evidence examined, witnesses interviewed, facts discovered, and legal principles applied to determine whether criminal culpability exists on the part of any LHPD officer or any other person under the supervision of LHPD.

On Nov. 25, 2012, OCDA Special Assignment Unit (OCDASAU) Investigators responded to a residence on West Lambert Road, La Habra, after Ford committed suicide while three La Habra police officers were stationed outside his residence after an unsuccessful arrest. During the course of this investigation, OCDA Investigators interviewed 16 witnesses, as well as obtained and reviewed reports from the LHPD and Orange County Crime Laboratory (OCCL), incident scene photographs, and other relevant materials. Officers Paul Lucifora, Jennifer Southern, and Cory Barrow gave separate, voluntary, consensual statements to the OCDA on Nov. 25, 2012. Their statements are consistent with one another and with the facts delineated in this letter.

The OCDA conducted an independent and thorough investigation of the facts and circumstances of this event and impartially reviewed all relevant 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 LHPD 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 police custody. Although Ford was not in police custody when he died and was not shot by any police officers, OCDASAU nevertheless conducted an investigation into his death because it occurred shortly after an altercation with LHPD officers. An OCDASAU Investigator is assigned as a case agent and is supported by other OCDASAU Investigators, as well as by 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 any needed hospital investigative responsibilities. The OCDASAU audio records all interviews, and the OCCL processes all physical evidence related to the investigation.

When the OCDASAU investigation has concluded, 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

Ford was a 54-year-old male with a criminal history of predominantly assault-related convictions. According to Ford's sister, Ford had begun suffering from psychological issues in his adult years. Based on criminal history information gleaned from the National Crime Information Center, Ford's documented violent behavior began in 1990. Ford's sister correlated the appearance of Ford's illness with the beginning of his violent behavior. At the time of his death, Ford had been unemployed for approximately six years and, due to his psychiatric condition, had been unable to secure employment. He lived alone in his La Habra home, located on West Lambert Road.

On Nov. 25, 2012, at approximately 3:01 p.m., LHPD dispatch received a telephone call from Ford. Ford reported that a female neighbor, Jane Doe, was harassing him as she walked her dog past Ford's garage. Ford was inside his garage at that time. As Ford reported the incident, he seemed to become frustrated and abruptly ended the conversation with the dispatcher. LHPD Officers Lucifora and Southern were dispatched to Ford's home approximately four minutes later. LHPD Officer Barrow was available to assist them and also went to Ford's residence. At approximately 3:07 p.m., LHPD dispatch telephoned Ford to advise him that police officers were coming to his residence. While the dispatcher spoke to Ford on the telephone, Ford sounded frustrated and became annoyed with the dispatcher. Ford explained to the dispatcher that he had been unsatisfied with the way the LHPD had handled his similar past complaints and threatened to sue the LHPD.

LHPD Lieutenant Jason Forgash was present inside the dispatch center at the time the dispatcher attempted to communicate with Ford. Lieutenant Forgash requested that Ford's call be transferred to his extension in the Watch Commander's office. Lieutenant Forgash had prior contact with Ford and was also aware of prior calls for service involving Ford. As Lieutenant Forgash spoke with Ford, he became aware that Ford was agitated. Ford spoke in a disjointed manner. Lieutenant Forgash was not clear why Ford was reporting Jane Doe for walking her dog by his residence. Lieutenant Forgash later learned that Jane Doe had a restraining order against Ford. Lieutenant Forgash believed that Ford was trying to obtain a restraining order against Jane Doe. While Lieutenant Forgash spoke with Ford on the telephone, the dispatched officers arrived at Ford's location. Lieutenant Forgash advised Ford that if he was not satisfied with the outcome of his contact with the officers, he should call Lieutenant Forgash to further discuss the issue. Lieutenant Forgash concluded his conversation with Ford.

At approximately 3:08 p.m., Officer Lucifora arrived on scene and parked his vehicle south of Ford's garage door. Officer Lucifora observed Ford flagging him down from the open garage. Approximately two minutes later, Officer Southern arrived on the scene and parked her vehicle near Officer Lucifora's. Officer Southern and Officer Lucifora exited their vehicles and made contact with Ford. At approximately 3:11 p.m., Officer Barrow advised dispatch that he was being flagged down by a female subject in the vicinity of West Lambert Road and Tulip Street, which was located a short distance east of Ford's residence. The female subject was later identified as Ford's neighbor, Jane Doe. As Officer Lucifora spoke with Ford, Ford stated that Jane Doe was harassing him and that he was tired of being harassed by all of his neighbors. Ford stated that Jane Doe had been walking her dog off-leash. Ford had already reported Jane Doe to "Animal Control" for the same violation. Other than identifying Jane Doe as walking past his garage with her dog off-leash, Ford would not elaborate on the circumstances that caused him to telephone the LHPD, but was adamant that he wanted Jane Doe arrested. Officer Lucifora explained to Ford that Officer Barrow was speaking with Jane Doe. Officer Lucifora explained that there are always two sides to a story and that, based on Jane Doe's statements to Officer Barrow, she may have sufficient cause to place Ford under citizen's arrest. Ford responded by stating that he would not go to jail.

LHPD dispatch personnel advised the officers on scene that there was a protective order on file under which Ford was the restrained party and Jane Doe was one of the protected parties. Officer Lucifora walked back to his police vehicle to retrieve his cell phone so that he could telephone Officer Barrow to discuss the details of the protective order. During the telephone conversation, Officer Lucifora attempted to determine if a violation of a protective order had occurred. Officer Southern remained at the garage with Ford, while Officer Lucifora left the immediate area to speak with Officer Barrow. Officer Southern asked Ford if he was aware of the protective order. Ford admitted having knowledge of the protective order and being the restrained party. Officer Southern asked Ford if he knew the names of the protected parties. Ford told Officer Southern that a protected party was one of his neighbors. Officer Southern asked Ford if Jane Doe was included as a protected party in the restraining order. Ford stated that he did not know and would have to consult with his attorney.

As Officer Lucifora spoke with Officer Barrow, Officer Southern waved Officer Lucifora back to Ford's garage. Officer Lucifora immediately ended his conversation with Officer Barrow and returned to Ford's garage. When Officer Lucifora arrived at the garage, Ford told Officer Lucifora and Officer Southern that he was going to go inside his residence. Officer Lucifora told Ford that he was not free to leave since Officer Lucifora was now investigating the possibility that Ford had violated a protective order. Officer Lucifora ordered Ford to remain in his presence until the police could determine whether the protective order had been violated. According to Officer Lucifora, Ford stated, "No, I'm just going to go back inside of my house."

Ford began walking around his garage. Officer Lucifora asked Ford to sit down while Officer Lucifora and Officer Southern figured out what was going on. Ford grabbed a corded telephone receiver off of the north wall of the garage and then sat down on the garage floor. As Ford sat down, according to the officers, his demeanor changed. He appeared to become more agitated and raised his voice when speaking to Officer Lucifora. Officer Barrow, who was still with Jane Doe, recognized that Officer Lucifora had abruptly ended their conversation. Officer Barrow immediately suspected that Officer Lucifora and Officer Southern may be having difficulty dealing with Ford. Officer Barrow concluded his interview of Jane Doe and returned to the garage.

Ford did not appear to be speaking to anyone on the telephone, so Officer Lucifora ordered Ford to put the telephone down. Ford responded, "No." Officer Lucifora again told Ford, "Put the phone down," as he reached out in Ford's direction with his arm extended toward the telephone. Ford leaned back and kicked Officer Lucifora in the chest with both feet. Ford immediately followed that kick with a second kick to Officer Lucifora's chest. Officer Lucifora yelled to Officer Southern, "Get us some units here!" Ford leaned forward and, with his left foot, kicked Officer Lucifora twice more, once below the right knee and once in the right thigh. Ford rose to his feet. Officer Southern approached Ford. Ford punched the left side of her face. The impact of the punch caused Officer Southern to fall backwards onto the ground.

Ford continued to advance toward Officer Lucifora and Officer Southern. Officer Lucifora drew and discharged his Taser at Ford. Ford's body "immediately locked up." Ford reached with both hands to his chest area and began pulling at the Taser wires. Officer Lucifora backed up slightly, dropped the expended Taser cartridge, and replaced it with a fresh cartridge. Ford returned to what Officer Lucifora described as a "combative stance." Ford began to advance toward Officer Lucifora. Officer Southern, who had been able to regain her footing, drew her Taser and discharged it at Ford. Ford punched her twice on the left side of her face. Ford then retreated into the rear, northwest corner of the garage. Ford began to advance toward Officer Lucifora once more. Officer Lucifora discharged a second cartridge from the Taser at Ford. Ford initially behaved as though the Taser was affecting him, but then reached for the Taser probes and pulled them out of his body. Ford retreated into the rear, northwest corner of the garage once more. Officer Barrow arrived at the entrance to Ford's garage and observed Officer Lucifora and Officer Southern standing at the opening of the garage.

Officer Barrow observed Ford standing and yelling in the northwest corner of the garage. Ford appeared "very agitated, very upset" and had assumed an "aggressive stance." Officer Barrow later explained that he and his partners felt afraid of Ford. Officer Lucifora told Officer Barrow that he and Officer Southern had used their last Taser cartridges and asked that Officer Barrow deploy his. Officer Barrow drew his Taser and entered the garage along the south wall, walking along the driver's side of the parked vehicle. Officer Lucifora and Officer Southern moved along the passenger's side of the parked vehicle, toward the rear of the garage. Both Officer Lucifora and Officer Southern were giving Ford commands to get on the ground. Ford refused to comply with the commands and maintained a fighting stance.

As Officer Barrow reached the front of the vehicle, he fired his Taser at Ford, to no effect. Officer Lucifora drew his baton and approached Ford. Officer Lucifora ordered Ford to get down on the ground. Ford refused to comply, so Officer Lucifora struck Ford with his baton on the lower left side of his body. The baton strike did not appear to have an effect on Ford. Ford reached for an approximately four-foot to six-foot stepladder that was lying close to the area where Ford was standing. As Ford reached for the stepladder, Officer Lucifora struck Ford in the chest area with his baton. Officer Lucifora continued to order Ford to get on the ground. Ford grasped the ladder with both hands and held it between his own body and the bodies of the police officers. Officer Southern and Officer Lucifora continued to order Ford to put his hands up, stop resisting arrest, and get on the ground. Ford refused to comply. Officer Barrow replaced the expended cartridge that was in his Taser with an unexpended cartridge and prepared to discharge the Taser once more. Officer Barrow noticed the right side of Ford's body had become exposed from behind the ladder he was holding, so he discharged his Taser at Ford's right side. At approximately the same time Officer Barrow discharged his Taser at Ford, Officer Southern reactivated her Taser, whose probes were still attached to Ford. Ford again pulled the Taser probes out of his body.

Ford immediately turned his attention to Officer Barrow and began to rush at him with the ladder extended toward him. Ford braced the ladder against the front of Officer Barrow's body and forced him backwards onto the hood of the parked vehicle. Ford pinned Officer Barrow against the hood of the car and began punching Officer Barrow's face. As Ford punched, he made contact with the left side of Officer Barrow's face. Officer Barrow later stated that he did not feel the full impact of the punches and described the strikes as glancing blows. Officer Lucifora approached Ford and began to strike Ford with his baton on the left calf, to little effect. At approximately the same time that Officer Lucifora was striking Ford with his baton, Officer Lucifora attempted to make a radio broadcast for assistance. However, due to poor reception inside Ford's garage, Officer Lucifora was unable to broadcast his call for assistance. Officer Lucifora ran from the garage into the driveway in front of the garage and completed his radio broadcast for assistance.

At approximately the same time as Officer Lucifora's broadcast for assistance, Officer Southern drew her baton and struck Ford approximately three times on his left thigh and knee area. The baton strikes were "completely ineffective." When Officer Lucifora returned to the garage, Ford was still on top of Officer Barrow and Officer Southern was still delivering baton strikes to Ford. Officer Barrow maintained control of the Taser in his left hand while pinned to the hood of the vehicle by Ford. Officer Barrow attempted to manually Taser Ford by having direct contact between the Taser and Ford. Officer Barrow pushed the Taser into Ford's right side, just below his armpit, and discharged it to no apparent effect. Ford continued to

punch at Officer Barrow for a few moments longer, until he suddenly stopped and backed away from Officer Barrow, still holding onto the stepladder.

Ford declared that he was going to go inside his residence. Ford moved toward the door to the house, pulled keys from his pocket, and inserted a key into the lock. As he did so, Ford once more stated that he was not going to jail. Ford opened the door, entered the residence, and then slammed the door behind him. Officer Barrow approached the door and attempted to kick it open, but was unsuccessful. Officer Southern and Officer Lucifora advised Officer Barrow to stop kicking the door and to exit the garage to regroup. Officers Lucifora, Southern, and Barrow exited the garage at that time and had no further contact with Ford. They took positions to secure the outside of the residence until assisting police units could arrive. At 3:22 p.m., LHPD dispatch telephoned Ford's residence and received a busy signal.

When Lieutenant Forgash arrived at Ford's house, he learned that a set of keys that would allow entry through the door had been discovered by officers in the garage. At 3:45 p.m., LHPD Canine Officer Nick Baclit arrived at Ford's house. Using a police patrol vehicle's public announcement system, Officer Baclit announced that a police dog was present at the location and that the LHPD would soon enter Ford's home. Ford did not respond. At 3:51 p.m., a team of LHPD officers entered Ford's residence through the door inside the garage. Directly beyond the door is a stairway leading to the second floor of the residence. At the bottom of that stairway and to the right of the garage/residence door was a locked door which was later discovered to be the entrance to the basement. An officer posted at that door while additional officers searched the rest of the home.

The residence was a large, multi-level condominium. Once the search team reached the upper floor, they discovered an entry to an attic through the bathroom ceiling. Officer Lucifora posted near the attic entry until a search of the basement could be conducted. The search team returned to the basement door on the lower level of the residence. As soon as Lieutenant Forgash opened the door, he observed Ford hanging by a rope. Lieutenant Forgash immediately entered the room and positioned himself behind Ford. Using his pocket knife, Lieutenant Forgash cut the rope that was around Ford's neck. Officers carried Ford from the basement into the garage, where medical intervention was immediately provided. Lieutenant Forgash recalled seeing a dark red ligature mark around Ford's neck. Ford felt cool to the touch and appeared not to have a pulse. Lieutenant Forgash did not note any other significant injuries to Ford.

While guarding the upper level area of the residence, Officer Lucifora heard a radio broadcast from Lieutenant Forgash, who requested that paramedics respond to the location. Officer Lucifora returned to the garage level and witnessed Ford being carried out of the residence into the garage. Ford appeared unresponsive. Lieutenant Forgash ordered cardiopulmonary resuscitation (CPR) to be performed on Ford. Officer Lucifora immediately ran outside the garage to his police vehicle and retrieved a bag valve mask to assist in the aid of CPR. When Officer Lucifora returned to assist Ford, he observed marks on Ford's neck. Until that time, Officer Lucifora was not aware that Ford had hanged himself inside the residence.

Officer Lucifora participated in Ford's CPR, using the bag valve mask to provide Ford breaths, until Los Angeles County Fire Department (LACFD) paramedics arrived on the scene at approximately 3:53 p.m. LACFD personnel relieved LHPD personnel and took over CPR, which they continued using chest compressions and a bag valve mask for ventilation. Ford was provided an intravenous line to administer medications. Using a cardiac monitor, they determined that Ford was not registering any cardiac electrical activity. They provided Ford with two rounds of Epinephrine, to no effect. During Ford's treatment, LACFD personnel were in constant contact with Saint Jude Medical Center on West Valencia Mesa Drive, Fullerton. At approximately 4:26 p.m., based on the information LACFD personnel provided to the hospital, Dr. Dennis Ross pronounced Ford deceased.

Post-Incident, Voluntary Interviews with Civilian Witnesses in the Neighborhood

Jane Doe

Ford's neighbor, Jane Doe, gave a voluntary, consensual statement to the OCDA on Nov. 25, 2012. Her statement is consistent with the facts stated above. Earlier that day, Jane Doe was walking her dog southbound toward Lambert Road,

through the east alleyway of her condominium complex. Jane Doe walked by the open garage belonging to Ford, where she observed Ford placing his bicycle onto a rack on his car. Ford said something to the effect of, "Get the f*** out of my area" to Jane Doe and appeared to photograph Jane Doe and her dog with what Jane Doe believed was a digital camera. Jane Doe observed Ford pick up a telephone in his garage and she assumed he called 911.

After exchanging some words with Ford, Jane Doe walked to Lambert Road and then turned east on Lambert Road. Jane Doe observed a marked LHPD unit on Lambert Road east of her condominium complex and suspected the officer was responding to Ford's residence. She waved the officer down and explained to the officer some of her history with Ford, including prior assaultive behavior by Ford. Jane Doe said the officer quickly drove away and she observed him pull into the east alley of her complex. As Jane Doe walked westbound on Lambert Road back toward her home, she observed John Doe and another neighbor on their respective balconies which overlook the east alley, waving her off. Jane Doe did not hear any verbal exchange nor observe any contact between Ford and LHPD officers.

John Doe

Ford's neighbor, John Doe, gave a voluntary, consensual statement to the OCDA on Nov. 25, 2012. Prior to the interview, John Doe provided LHPD officers with a Universal Serial Bus drive that contained video footage from a camera John Doe had mounted outside of his garage. The camera provides a northward view of the east alley of John Doe's condominium complex. John Doe also used his cellular telephone to shoot video during the Ford incident, which he provided to the LHPD. On the afternoon of Nov. 25, 2012, John Doe was inside of his closed garage when he heard a male and a female voice outside of his garage. John Doe recognized the male voice as belonging to Ford, his neighbor directly to the north. John Doe described Ford as speaking in a firm, direct manner. John Doe did not recognize the female's voice.

John Doe went upstairs and told his wife that something was going on outside. They moved to the garage to listen. Hearing nothing, they returned upstairs. Within a few minutes, John Doe heard a vehicle arrive in the east alley outside of his condominium. John Doe looked at the monitor that showed the view from the camera mounted outside of his garage and observed a police vehicle. John Doe and his wife returned to the garage in an attempt to hear what was going on because the camera mounted outside of his garage does not capture audio. John Doe heard Ford talking about a lady with a dog who had harassed him. Although he did not see Ford, John Doe described Ford's tone as "heated and confrontational."

John Doe then heard what he described as wrestling, screaming, and things falling. John Doe ran upstairs. From his second-story balcony, which overlooks the east alley, John Doe used his cellular telephone to shoot video of the area in the alley outside of Ford's garage. John Doe was unable to observe the area. Instead, he had to extend his arm outward over the edge of the balcony in order to video record the alley. On several occasions while on his balcony, John Doe heard what he believed was a male officer ordering Ford to "Get down." John Doe also heard the sound of a Taser, which he has heard on previous occasions, approximately three to five times. John Doe heard Ford yelling but could not decipher what Ford said. John Doe heard an officer say something to the effect of, "Get the front door," so John Doe ran to his front door. John Doe was unsure why he ran to his front door, though he said it was maybe to try to help the police. He did not hear anything else between Ford and the police.

According to John Doe, when he moved into his condominium two years ago, problems with Ford began immediately. John Doe has called the police regarding Ford on numerous occasions for issues such as Ford trying to enter his condominium, assaultive and harassing behavior, and hosing down John Doe's dog.

The OCDA reviewed the surveillance and iPhone video clips collected from John Doe. The iPhone video did not visually capture any events that transpired in the garage, but did capture audio of the incident as well as the John Doe's impressions. Throughout the roughly 90 second video, all of the involved police officers can be heard saying, "Get on the ground!" numerous times. The sound of Tasers being deployed can also be heard. John Doe made comments during the video such as, "He's going away for a long time this time," and, "Alan [Ford] is resisting arrest. He is fighting with the officers." The OCDA

has determined that the surveillance and iPhone video clips collected from John Doe credibly supports the testimony of John Doe as well as the statements made by the officers involved in the incident.

Ford's Prior Criminal History

Ford's criminal history dated back to 1990, including but not limited to assault on a peace officer/emergency personnel, battery on a peace officer/emergency personnel, and resisting and obstructing a peace officer, was reviewed and considered.

Evidence Collected at the Scene

An OCCL forensic scientist collected and/or photographed the following items of evidence: Taser cartridges (some with wires and/or probes still attached) and Taser cartridge doors, Taser wires and probes not attached to Taser cartridges, Taser AFIDs (pieces of paper confetti that show the location from which a specific Taser was fired), a Werner brand ladder, and the ligature that Ford used to kill himself. OCCL personnel also collected Ford's clothing and DNA.

Evidence Analysis

Officer Barrow's Taser

Officer Barrow's Taser was received with the battery pack removed. The illuminator, laser dot sight, and automatic five-second activation operated properly. The safety lever (on/off) operated properly and terminated the automatic five-second pulse when moved to the safe position.

Officer Southern's Taser

Officer Southern's Taser was received with the battery pack removed. The illuminator, laser dot sight, and automatic five-second activation operated properly. The safety lever (on/off) operated properly and terminated the automatic five-second pulse when moved to the safe position.

Officer Lucifora's Taser

Officer Lucifora's Taser was received with the battery pack removed. The illuminator, laser dot sight, and automatic five-second activation operated properly. The safety lever (on/off) operated properly and terminated the automatic five-second pulse when moved to the safe position.

Autopsy

On Nov. 27, 2012, beginning at approximately 9:10 a.m., Orange County Coroner's Office Forensic Pathologist Aruna Singhania conducted Ford's postmortem exam. Dr. Singhania concluded that Ford committed suicide and that his death was caused by ligature hanging.

Toxicological Examination

A sample of Ford's postmortem blood was removed for testing. The following result was obtained:

DRUG	MATRIX	RESULT
Zolpidem	Postmortem Blood	0.15 mg/L
Weak Acid/Neutral Drugs	Postmortem Blood	Valproic Acid

Zolpidem is used to treat insomnia. Zolpidem belongs to a class of medications called sedative-hypnotics. It works by slowing activity in the brain to allow sleep. It is sold under brand names such as Ambien, Edluar, Intermezzo, and Zolpimist. Valproic Acid is used alone or with other medications to treat certain types of seizures. Valproic acid is also used to treat mania (episodes of frenzied, abnormally excited mood) in people with bipolar disorder or manic-depressive disorder. Valproic acid belongs to the class of medications known as anticonvulsants. Valproic acid is sold under brand names such as Depakene, Depakote, and Stavzor.

Ford's sister stated she had never been provided a specific diagnosis of Ford's condition. She had questioned Ford's doctor

regarding the effectiveness of Ford's prescribed medicine, but was assured that the medicine was effective in treating Ford's condition(s). However, over the course of the year leading up to Ford's suicide, Ford's sister had noticed an uptick in the frequency of Ford's mood swings.

Decedent's Medical Condition

Ford had been under the care of a psychiatrist. Based on information provided by the Orange County Coroner's Office, Ford had been prescribed Depakote, one of the anticonvulsant drugs used to treat bipolar disorder or manic-depressive disorder identified above. On Dec. 16, 2008, the Food and Drug Administration (FDA) released an alert regarding the use of Depakote and other anticonvulsant medications. According to the alert, Depakote may cause the emergence or worsening of suicidal thoughts in patients who are using the drug. The alert stated, in part:

The FDA has completed its analysis of reports of suicidality (suicidal behavior or ideation [thoughts]) from placebo-controlled clinical trials of drugs used to treat epilepsy, psychiatric disorders, and other conditions. Based on the outcome of this review, FDA is requiring that all manufacturers of drugs in this class include a Warning in their labeling and develop a Medication Guide to be provided to patients prescribed these drugs to inform them of the risks of suicidal thoughts or actions. All patients who are currently taking or starting on any antiepileptic drug for any indication should be monitored for notable changes in behavior that could indicate the emergence or worsening of suicidal thoughts or behavior or depression.

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 that:

- a. The person committed an act that caused the death of another person;
- b. When the person acted he had a state of mind called malice aforethought; and
- c. He killed without lawful excuse or justification.

There are two kinds of malice aforethought, express malice and implied malice. Express malice is present when the person unlawfully intended to kill. Implied malice requires that a person intentionally committed an act, the natural and probable consequences of which were dangerous to human life, at the time the person acted he knew that the 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:

- 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 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 a 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 act amounts to a 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 if 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, a substantial factor does not need to be the only factor that causes the death.

LEGAL ANALYSIS

There is no evidence that any of the LHPD officers acted with express or implied malice. 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. Even if the LHPD owed Ford a duty of care after he ran inside his home and locked the door, the evidence would not support a finding that this duty was breached, either intentionally or in a criminally negligent manner. At the time of his suicide, Ford was not in police custody. On the contrary, Ford assaulted the officers as he was resisting arrest, and then returned to the inside of his home. No LHPD officers were even inside Ford's home when he committed suicide. There is no plausible theory under which any LHPD officer involved in the Ford incident owed him a legal duty of care at the time of his suicide, and under the circumstances as detailed above.

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 LHPD personnel, and there is substantial evidence that the officers involved acted reasonably under the circumstances. The evidence shows that no LHPD officers were even involved in Ford's death; rather, he committed suicide by ligature hanging. All officers involved gave voluntary statements, and the OCDA finds that those statements are credible, reasonable, and strongly supported by witness statements and physical and other evidence. Further, there is no conflicting evidence regarding Ford's death.

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 Homicide Unit