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April 30, 2018

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

Re: Custodial Death on November 12, 2017
Death of Inmate Shawn Derrick Cadavas
District Attorney Investigations Case # SA 17-030
Orange County Sheriff's Department Case #17-044762
Orange County Crime Laboratory Case #17-59149

Dear Sheriff Hutchens,

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. 12, 2017 custodial death of 44-year-old inmate Shawn Derrick Cadavas.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the custodial death of Shawn Derrick Cadavas. 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 Orange County Sheriff's Department (OCSD) personnel or any other person under the supervision of the OCSD.

On Nov. 12, 2017, Cadavas died while in custody and after receiving medical treatment at the Anaheim Global Medical Center (AGMC). OCDA Special Assignment Unit (OCDASAU) Investigators were contacted and responded to AGMC. During the course of the investigation, the OCDASAU interviewed one witness, as well as obtained and reviewed reports from the OCSD and Orange County Crime Laboratory (OCCL), incident scene photographs, and other relevant materials.

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 OCSD personnel or any other person under the supervision of the OCSD. The OCDA will not be addressing any possible issues relating to 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, but are not limited to the following: witness interviews, scene processing, 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, TARGET/Gangs, and Special Prosecutions Units review fatal, as well as non-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 the Senior Assistant District Attorney supervising the Felony Operations II Division of the OCDA, who 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 Tuesday, Nov. 7, 2017 at approximately 7:45 a.m., the Anaheim Police Department responded to an Anaheim address regarding transients trespassing on the business' premises. Upon arrival, officers contacted Cadavas and conducted a records check. Cadavas was subsequently arrested pursuant to Penal Code (PC) section 3455, Violation of Parole, and was transported to the Anaheim Detention Facility and booked without incident. During the booking process, Cadavas claimed he was "ill" but Cadavas would not elaborate further, and the booking officer noted that Cadavas would be reevaluated once Cadavas was sober. Later the same day, at approximately 6:42 p.m., Cadavas was booked into Orange County Jail, Intake Release Center (IRC). The booking officer at IRC noted that Cadavas did not appear to be under the influence of drugs or alcohol or confused or disorientated. Additionally he noted "schizophrenia" during the booking process.

A medical evaluation was conducted upon Cadavas' receipt into OCSD custody. During the initial medical evaluation conducted at the IRC, Cadavas was uncooperative and refused to have his vital signs taken, however the attending physician was able to obtain a chest X-ray of Cadavas. After review of the chest X-ray, the attending physician recommended that Cadavas be transported to a hospital for a possible Tuberculosis infection.

On Wednesday, Nov. 8, 2017, at approximately 12:50 a.m., OCSD personnel transported Cadavas to Anaheim Global Medical Center (AGMC). Cadavas refused to provide any medical history to hospital staff. Cadavas was admitted where he tested positive for Hepatits C, leukocytosis (high white blood cell count), and was placed in an isolated air pressurized room because he showed signs and symptoms of Tuberculosis. Later that day, AGMC Doctor Ravinder Singh evaluated Cadavas because he was having suicidal ideations and auditory hallucinations. Cadavas did not know what day it was and was easily agitated. Singh then diagnosed Cadavas with Psychotic disorder, most likely schizoaffective disorder.

On Thursday, November 9, 2017, Doctor Singh conducted another examination of Cadavas where Cadavas complained of hearing voices and not sleeping well. On November 10, 2017, Cadavas denied having auditory hallucinations and it was recommended that he continue taking Zyprexa. The attending physician noted that Cadavas may be discharged when he is medically stable. On November 11, 2017, the attending physician surmised that Cadavas remained withdrawn and isolated but was tolerating his medication. Cadavas' condition did not change until Nov. 12, 2017.

On Sunday, November 12, 2017, at 12:30 a.m., the AGMC attending physician was informed by nurses caring for Cadavas that they were unable to provide intravenous fluids or medication due to his collapsed veins, the result of a long history of drug abuse. The attending physician spoke with Cadavas and explained to him how important it was that he allow medical staff to start a central IV line as opposed to an intravenous line, but Cadavas initially refused. After further discussion Cadavas consented. Cadavas then began to experience low blood pressure and slow irregular breathing. Cadavas eventually stopped breathing and a "Code Blue" was called. "Code Blue" is a hospital term indicating that a person is not breathing. Cadavas was immediately resuscitated and brought back to life. Then, at approximately 1:00 a.m., Cadavas again went into cardiac arrest

and a second "Code Blue" was called. After lifesaving efforts were attempted by hospital staff, Cadavas was declared deceased at 1:07 a.m.

EVIDENCE COLLECTED

Only photographs were taken and no physical evidence was collected by OCCL or by the Orange County Coroner's Office (OCCO). Sixty-seven autopsy photographs were taken. Fifteen photographs were taken related to the embalming of Cadavas. Thirty-four photographs were taken related to the hospital scene where Cadavas expired.

AUTOPSY

On Nov. 15, 2017 independent Forensic Pathologist Scott Luzi from Clinical and Forensic Pathology Services conducted an autopsy on the body of Cadavas. Dr. Luzi concluded that Cadavas' death was caused by Pneumonia, with a history of chronic heroin use. Dr. Luzi concluded that Cadavas' manner of death was natural.

EVIDENCE ANALYSIS

Toxicological Examination

A sample of Cadavas' blood yielded the following results:

DRUG	MATRIX	RESULTS & INTERPRETATIONS
Methocarbamol	Antemortem	3.08 ± 0.40 mg/L
Carboxy-THC	Antemortem	Detected
Opiates	Antemortem	Presumptive Positive
Cannabinoids	Antemortem	Presumptive Positive
Olanzapine	Postmortem	0.149 ± 0.023 mg/L
Cannabinoids	Postmortem	Presumptive Positive

BACKGROUND INFORMATION

Cadavas had a State of California Criminal History record that revealed arrests for the following violations:

- Aggravated assault
- Dissuading a witness
- Prison rioting
- Burglary
- Petty theft
- Assault
- Battery
- Under the influence of a controlled substance
- Possession of a controlled substance
- Possession of drug paraphernalia
- False ID to a peace officer
- Possession of a stolen vehicle
- Possession of stolen property
- Parole violation
- Bringing alcohol/drugs into prison
- Evading a police officer
- Driving under the influence
- Hit and run
- Trespassing

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 must be proven:

a. The person committed an act that caused the death of another human being;
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/she acted he/she knew his/her 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.

In *Giraldo v. California Dept. of Corrections and Rehabilitation* (2008) 168 Cal.App.4th 231, 250-251, the court held that there is a "special relationship" between jailer and prisoner:

> "The most important consideration 'in establishing duty is foreseeability.'" It is manifestly foreseeable than an inmate may be at risk of harm . . . . Prisoners are vulnerable. And dependent. Moreover, the relationship between them is protective by nature, such that the jailer has control over the prisoner, who is deprived of the normal opportunity to protect himself from harm inflicted by others. This, we conclude, is the epitome of a special relationship, imposing a duty of care on a jailer owed to a prisoner, and we today add California to the list of jurisdictions recognizing a special relationship between jailer and prisoner."

California Government Code 845.6 codifies that the special relationship that exists in a custodial setting gives rise to a legal duty, as follows:

> "A public employee, and the public entity where the employee is acting within the scope of his employment, is liable if the employee knows or has reason to know that the prisoner is in need of immediate medical care and he fails to take reasonable action to summon such medical care."

Criminal negligence involves more than ordinary carelessness, inattention, or mistake in judgment. A person acts with criminal negligence when he/she 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/she acts is so different from how an ordinarily careful person would act in the same situation that his/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 whatsoever in this case of express or implied malice on the part of any OCSD personnel or any inmates or other individuals under the supervision of the OCSD. 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 OCSD owed Cadavas a duty of care, the evidence does not support a finding that this duty was in any way breached – either intentionally (as required for murder) or through criminal negligence (as required for involuntary manslaughter).

On Nov. 12, 2017 Cadavas was referred by doctors at the Orange County Jail to the hospital to ensure that he got the care necessary to rule out a potential Tuberculosis infection, and he was immediately transported without incident. After arriving at the hospital, Cadavas was continually monitored by hospital staff. When staff noticed Cadavas's health deteriorate they acted diligently and performed life-saving procedures. Cadavas' sudden death was the result of complications due to pneumonia and heavy drug abuse.

Therefore, there is no evidence to support a finding that any OCSD personnel or any other individual under the supervision of the OCSD failed to perform a legal duty triggering any legal culpability on the part of OCSD or any other individual under the supervision of OCSD.

CONCLUSION

Based on all the evidence provided to and reviewed by the OCDA, and pursuant to applicable legal principles, it is our conclusion that there is no evidence to support a finding of criminal culpability on the part of any OCSD personnel or any individual under the supervision of the OCSD. The evidence shows that Shawn Derrick Cadavas died from natural causes as a result of complications from pneumonia and chronic substance abuse.

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

Respectfully submitted,

DOMINIC BELLO
Deputy District Attorney
TARGET/GANGS Unit

Read and Approved by **EBRAHIM BAYTIEH**
Senior Assistant District Attorney
Felony Operations II