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November 13, 2014

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

Re: Custodial Death on January 13, 2014
Death of Arrestee Arthur Joseph Taylor
District Attorney Investigations Case # S.A. 14-002
Anaheim Police Department Case # 14-06259
Orange County Crime Laboratory Case # 14-40540

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 Jan. 13, 2014, custodial death of 49-year-old arrestee Arthur Joseph Taylor.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the custodial death of Taylor. 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) personnel or any other person under the supervision of the APD.

On Jan. 13, 2014, OCDA Special Assignment Unit (OCDASAU) Investigators responded to the University of California, Irvine Medical Center (UCIMC) after Taylor died while in custody after receiving medical treatment at the hospital. During the course of this investigation, three interviews were conducted. The OCDASAU also obtained and reviewed reports from the APD 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 reviewed all evidence and applicable legal standards impartially. The scope and findings of this review are expressly limited to determining whether any criminal conduct occurred on the part of APD personnel or any other person acting under the supervision of the APD. 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 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. Throughout the review process, the assigned prosecutor will be in consultation with his or her supervisor, and this Assistant District Attorney eventually will review and approve any legal conclusions and resulting memoranda. 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.

Background

Arthur Joseph Taylor had an extensive criminal history, including bank robbery while armed and residential and commercial burglary. Taylor was released from federal custody on Jan. 2, 2014, following a 20-year commitment for bank robbery. At the time of the incident, Taylor was on federal probation under the supervision of the United States Probation Office, and his probationary status was to last until Dec. 3, 2018.

Summary

On Friday, Jan. 10, 2014, at approximately 1:13 p.m., Taylor entered the Bank of the West branch, located at 4501 East La Palma Avenue, in Anaheim California. Taylor was observed in surveillance footage loitering in the lobby of the bank until approximately 1:25 p.m., when he approached teller station #6. John Doe #1 was completing a deposit of \$3,905, which he placed on the counter at teller station #6. Taylor proceeded to the station window and handed the teller a note stating, "ROBBERY GIVE MONEY HAVE GUN NOW." Taylor grabbed the currency John Doe #1 was preparing to deposit and exited the bank.

Upon exiting the bank, Taylor entered a white, four-door Honda Civic ("Civic") driven by Richard Brieger.

Jane Doe and John Doe #2 witnessed the robbery and Taylor's exit from the bank. They began following the Civic in their vehicle and contacted APD to provide a description of Taylor and Brieger. Jane Doe and John Doe #2 followed the Civic from La Palma Avenue and Tustin Avenue to the 91 Freeway. When Brieger noticed Jane Doe and John Doe #2 following, Brieger began driving erratically, including sideswiping a car as the Civic turned onto the freeway onramp. The Civic traveled west on the 91 Freeway to the 57 Freeway south and exited at Lincoln Avenue. While on the freeway, Brieger traveled at speeds in excess of 90 miles-per-hour and weaved in and out of traffic. While on Lincoln Avenue, Brieger continued to weave in and out of traffic and nearly caused several collisions.

At the intersection of Lincoln Avenue and Sunkist Street, APD officers acquired sight of the Civic and initiated pursuit. Jane Doe and John Doe #2 stopped following the Civic at that time. Three APD officers trailed the Civic at speeds of approximately 80 miles-per-hour. They observed Brieger continue to weave in and out of traffic. On two occasions, Brieger drove through parking lots at unsafe speeds and nearly struck a pedestrian. Brieger was speeding eastbound on La Palma Avenue, approaching the intersection of Crosby Way, when a vehicle turning from westbound La Palma to southbound Crosby initiated a lawful left turn in front of Brieger. Brieger turned abruptly to the left and then back to the right to avoid that vehicle, but lost control of the Civic, which began skidding and rotating clockwise. The Civic collided with a signal light pole on the southeast corner of La Palma Avenue and Crosby Way.

The Civic sustained major damage to the entire length of the driver's side of the vehicle. The top of the "A" pillar had been forced inward and rearward, the entire left "B" pillar had been forced into the driver's seat, and the left rear door had been forced into both the driver and passenger seats. Traffic investigators also determined that neither occupant was wearing a seat belt at the time of the collision. Both occupants were rendered unconscious upon impact. APD officers removed both men from the car. APD officers discovered that Taylor was not breathing and initiated cardiopulmonary resuscitation (CPR) and radioed for paramedics.

At approximately 1:43 p.m., six minutes after having been dispatched, Anaheim Fire Department (AFD) personnel arrived on the scene. Because there were two individuals requiring medical attention, AFD Captain Don Ball requested additional resources. AFD Paramedic Brian Pollema began immediately assessing and treating Taylor. Taylor was unconscious, in full cardiac arrest, and had suffered major trauma to the head and face, including an apparent skull fracture. There were copious amounts of blood in his oral cavity and several teeth were broken. Taylor had no pulse, no blood pressure, was not breathing, and remained in that condition during the time AFD treated him.

Captain Ball and Paramedic Pollema applied spinal precautions, established an intravenous line and endotracheal intubation, administered one-milligram of Epinephrine, and prepared for transportation to the hospital. At approximately 2:06 p.m., Taylor was transported to UCIMC by a Care Ambulance. Captain Ball and Paramedic Pollema accompanied Taylor in the ambulance and continued CPR during transport. At the direction of UCIMC, Captain Ball and Paramedic Pollema administered an additional one-milligram dose of Epinephrine on three occasions.

At approximately 2:12 p.m., they arrived at UCIMC and Captain Ball relinquished care of Taylor to the medical trauma staff.

AFD transported Brieger to Western Medical Center – Santa Ana, where he was pronounced deceased at 2:33 p.m.

The attending trauma surgeon at UCIMC was briefed on Taylor's medical condition by paramedics. Taylor was in "full traumatic arrest" upon arrival with a 20-centimeter scalp laceration and "blown" pupils. Taylor exhibited "pulseless electrical activity," which indicated that he had a heart rhythm but no blood pressure. During treatment in the trauma bay, medical staff had to reinstitute CPR on two occasions when Taylor exhibited no pulse. On both occasions, a pulse was regained and treatment of Taylor continued. Taylor's heart rate continued to be excessively high with very low blood pressure. The attending trauma surgeon opined that based on these factors, it was unlikely that Taylor would survive.

After establishing a pulse, Taylor's scalp laceration was stapled to stop the bleeding and a bag valve mask was utilized to assist with breathing. Taylor was administered Epinephrine in an attempt to raise his blood pressure. Taylor had multiple abrasions on his body and showed no sign of neurological function.

Taylor was sent for a Computed Tomography Scan, which revealed massive chest trauma, including multiple rib fractures, blood in both lungs, air outside of the lungs, pulmonary contusions, and bleeding from the spleen. Taylor also had pelvic and hip fractures and a subarachnoid hemorrhage with brain edema.

Taylor was transferred to the UCIMC Surgical Intensive Care Unit for further treatment and evaluation. The attending Neurosurgeon established a "devastating brain injury protocol." Taylor was then transferred to the Intensive Care Unit.

The attending surgeon identified three primary medical issues relating to Taylor: (1) most significantly, there had been irreversible non-survivable physiological damage to Taylor's organs as a result of the trauma and the extended periods of oxygen deprivation; (2) a massive non-survivable brain injury; and (3) massive chest trauma.

On Jan. 12, 2014, a Nuclear Brain Profusion Study, which tests for blood flow to the brain, was conducted on Taylor. The test results were reviewed at 3:13 p.m., and indicated a lack of blood flow to Taylor's brain, signifying brain death. At 5:15 p.m., the

attending physician signed a brain death declaration form and Taylor's son gave consent for the procurement of Taylor's organs for donation.

The following day, Jan. 13, 2014, Taylor was determined ineligible for organ donation, due to medical reasons, and he was removed from the breathing machine. At approximately 4:20 p.m., Taylor's heart stopped beating.

AUTOPSY

On Jan. 14, 2014, Dr. Yong Son Kim, a pathologist with the Orange County Coroner's Office, conducted a post-mortem examination of Taylor. Dr. Kim determined that Taylor suffered fractures in his ribs and chest plate, and his brain was torn. Dr. Kim concluded Taylor's cause of death was a result of multiple blunt force traumatic injuries.

EVIDENCE ANALYSIS

Toxicological Examination

A sample of Taylor's postmortem blood tested negative for the presence of drugs and alcohol.

Taylor's Criminal History

Taylor had an extensive State of California Criminal History Record including, but not limited to, residential burglary, commercial burglary, and bank robbery.

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 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 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.

In *Girardo v. California Department of Corrections and Rehabilitation* (2008) 168 Cal.App.4th 231, 251, the court established that there is a "special relationship" between custodian and inmate:

"The most important consideration in establishing duty is foreseeability. It is manifestly foreseeable that 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 the legal principle 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 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 personnel or other individuals under the supervision of the APD. 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 since technically Taylor was in custody at the time of his death.

Although the APD owed Taylor 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).

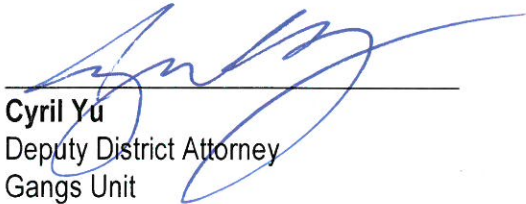
Taylor had an extensive criminal history and was on federal probation for bank robbery at the time of the incident. On Jan. 10, 2014, Taylor robbed a bank and entered a Honda Civic driven by Brieger. Brieger drove recklessly as he attempted to elude two individuals who witnessed the crime and followed Taylor and Brieger. When APD officers joined in the pursuit, Brieger continued to drive erratically and dangerously at high speed. While attempting to avoid a collision with another vehicle, Brieger lost control of his vehicle and crashed into a signal light pole. Both occupants were rendered unconscious upon impact and suffered substantial, life-threatening internal injuries. APD officers immediately provided medical assistance, but Taylor was not breathing and went into cardiac arrest. When AFD arrived, Taylor had no pulse, no blood pressure, and was still not breathing. AFD transported Taylor to UCIMC, where his care was transferred to hospital staff. UCIMC doctors concluded that Taylor had suffered irreversible non-survivable physiological damage to his organs as a result of the trauma, massive non-survivable brain damage, and massive chest trauma. Thus, there is no evidence whatsoever to support a finding that any APD personnel or any individual acting under the supervision of the APD failed to perform a legal duty.

CONCLUSION

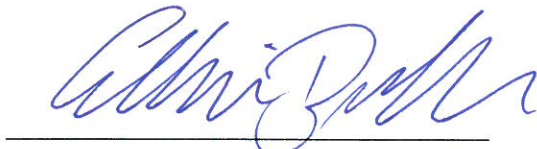
Based on all the evidence provided to and reviewed by the OCDA and pursuant to applicable legal principles, it is our legal opinion that there is no evidence to support a finding of criminal culpability on the part of any APD personnel or any individual under the supervision of the APD. The evidence conclusively shows that Taylor died as a result of multiple blunt force traumatic injuries caused in a traffic collision that stemmed from Taylor's flight after committing a robbery.

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

Respectfully submitted,



Cyril Yu
Deputy District Attorney
Gangs Unit



Read and Approved by **Ebrahim Baytieh**
Acting Assistant District Attorney
Head of Court – Special Prosecutions Unit