



OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA

TODD SPITZER

July 29, 2021

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

Re: Custodial Death on December 18, 2020
Death of Inmate Eddie Lee Anderson
District Attorney Investigations Case # 20-033
Orange County Sheriff's Department Case # 20-042089
Orange County Crime Laboratory Case # FR 20-55631
Orange County Coroner's Office Case # 20-06758-RD

Dear Sheriff Barnes,

Please accept this letter detailing the Orange County District Attorney's Office's (OCDA) investigation and legal conclusion in connection with the above-listed incident involving the December 18, 2020, custodial death of 68-year-old inmate Eddie Lee Anderson ("Anderson").

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the custodial death of Anderson. 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 in connection with this custodial death incident.

On December 18, 2020, OCDA Special Assignment Unit (OCDASAU) Investigators responded to University of California, Irvine-Medical Center (UCIMC), where Anderson died while in custody after receiving medical treatment at the hospital. During the course of this investigation, the OCDASAU interviewed 1 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.

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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 an experienced deputy district attorney for legal review. Deputy district attorneys from the Homicide, Gangs, and Special Prosecutions Units review fatal and 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 Operations IV Division of the OCDA, who will eventually review and approve any legal conclusions and resulting memos. The case may often be reviewed by several experienced prosecutors and their supervisors. If necessary, the reviewing prosecutor may send the case back for further investigation. The District Attorney personally reviews and approves all officer involved shooting and custodial death letters.

FACTS

In May of 2019, the OCDA's office issued an arrest warrant for Eddie Lee Anderson for the 1976 murder of Leslie Harris. The Plaquemines Sheriff's Department arrested Anderson in River Ridge, Louisiana, and he was extradited to Orange County.

On July 1, 2019, Anderson arrived at the Intake Release Center (IRC) and an Orange County Health Care Agency (OCHCA) Registered Nurse (RN) provided a medical screening. The RN found that Anderson suffered from hypertension, Benign Prostatic Hyperplasia (BHP), an overactive bladder, and diabetes. Due to his conditions, Anderson received follow-up care, a heart healthy diet, a wheelchair for transfer to his cell, and a lower bunk assignment. Anderson was prescribed the following medications:

DRUG	STRENGTH	AMOUNT
Oxybutynin Chloride Oral	5 MG	Two times a day
Metformin HCl Oral	1000 MG	Two times a day
Atorvastatin Calcium Oral	20 MG	Once a day
Losartan Potassium Oral	50 MG	Once a day
Amlodipine Besylate Oral	10 MG	Once a day

Anderson's vital signs were checked once a day, and his blood glucose was checked twice a day for the next four days. On July 9, 2019, Anderson's blood pressure and blood sugar levels remained out of normal ranges. An OCHCA Nurse Practitioner (NP) prescribed Anderson with these additional medications:

DRUG	STRENGTH
Lisinopril	10 MG
Glipizide	5 MG

By July 16, 2019, Anderson's blood pressure and blood sugar levels began to improve slightly, but still needed monitoring. On December 27, 2019, an OCHCA NP began to treat Anderson with insulin once a day, which OCHCA medical staff administered. The medical staff adjusted his medications as needed and Anderson continually received medical care throughout the year to address his health concerns. He received treatment for physical complaints such as lower back pain, left shoulder pain, and foot problems. He also received adjustments to medications. On January 30, 2020, an OCHCA staff member noted Anderson was doing fine except for his complaints of neck and lower back pain. Anderson reported no fever, chills, respiratory, or cardiovascular issues. Anderson was prescribed the following medications to treat his pain and allergies:

DRUG	STRENGTH	AMOUNT
Acetaminophen	325 MG	Two times a day
Fluticasone Propionate Nasal Spray	50 MCG/ACT	Once a day at night

On March 4, 2020, Anderson reported to an OCHCA medical staff member that he had pain and weakness in his left arm due to a past neck fusion surgery. Because of this, Anderson was given arm exercises, but he reported that the pain and weakness did not subside. Anderson was then referred to physical therapy and orthopedic care to subdue the pain and reestablish his range of motion in his arm.

Anderson was documented to suffer from the following medical conditions: allergic rhinitis, hypertension, type 2 diabetes with hyperglycemia, enlarged prostate, overactive bladder, nicotine dependence, obesity, lower back pain, and intervertebral disc degeneration. On July 7, 2020, an OCHCA medical staff member noted that Anderson was doing well. Anderson remained on his current medical treatment as well as his orthopedic care for his arm. Anderson was prescribed the following medication to control his blood sugar levels:

DRUG	STRENGTH
Insulin Humalog	100 UNIT/ML

While Anderson was in custody, medical staff provided constant care and accommodations for him, including canvas shoes and a wheelchair to use for court and to move throughout the jail. On September 5, 2020, an OCHCA medical staff member randomly screened Anderson for COVID-19. Anderson denied having fever, chills, shortness of breath, sore throat, or loss of taste and smell. Anderson's body temperature was 95.4 degrees. On October 26, 2020, an OCHCA medical staff member completed another random COVID-19 screening on Anderson. Anderson again denied having fever, chills, shortness of breath, sore throat, or loss of taste and smell. His temperature was 97.4 degrees. In November 2020, Anderson began experiencing problems with his knees and was provided a walker and cane.

On December 12, 2020, OCHCA medical staff conducted a rapid BinaxNOW COVID-19 test on Anderson and at 2:03 p.m. obtained a positive result. On December 13, 2020, at 4:06 a.m., an OCHCA medical staff member completed a Standard Nursing Assessment on Anderson because he reported not feeling well. Anderson was experiencing rapid heart rate, labored breathing, loss of appetite, and loss of taste. OCHCA could no longer accommodate Anderson's medical issues and shortly thereafter, paramedics transported him to the University of California, Irvine-Medical Center (UCIMC).

At UCIMC, around 8:06 a.m., a RN documented that Anderson suffered shortness of breath, loss of taste, abdominal pain, and chills. The medical staff deemed Anderson as a COVID-19 patient, and he remained hospitalized for his medical condition. Standard medical treatment did not improve his

condition. Anderson was coherent and able to speak. Medical staff informed Anderson of his condition and he was advised that he needed to be intubated. Anderson refused to be intubated and signed a Do Not Resuscitate (DNR) order. According to the attending Medical Doctor (MD) who was interviewed for this investigation, Anderson was transferred to the intensive care unit on December 15, 2020. This MD stated that Anderson's condition continued to worsen. Anderson requested Comfort Care only and on December 17, 2020 he was placed on Comfort Care at about 11:30 p.m. On December 18, 2020, at 4:25 a.m., an RN checked on Anderson and found him not breathing and without a heart rhythm. A UCIMC attending MD pronounced Anderson deceased at 5:00 a.m.

EVIDENCE COLLECTED

The following items of evidence were collected and examined:

- Blood Standard
- 55 OCCL Hospital Scene Photographs
- 49 OCCL Autopsy Photographs
- 23 OCCL Post Embalming Photographs
- 15 OCCO Hospital Scene Photographs

AUTOPSY

On December 30, 2020, independent Forensic Pathologist Dr. Luzi conducted an autopsy on Anderson's body. Dr. Luzi found no evidence of major (acute, life-threatening) or minor (acute, non-life-threatening) injuries. Additionally, Dr. Luzi found that Anderson suffered from the following: Cerebral edema, Pulmonary congestion and edema, Cardiomegaly, Moderate coronary atherosclerosis, Mild to moderate peripheral atherosclerosis, and Nephrosclerosis. Dr. Luzi determined Anderson's cause of death to be natural due to diffuse alveolar damage due to severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

EVIDENCE ANALYSIS

Toxicological Examination

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

DRUG	POSTMORTEM BLOOD
Morphine (Free)	0.392 ± 0.042 mg/L
Lidocaine	Detected
Midazolam	Detected

BACKGROUND INFORMATION

Anderson had a Criminal History record that revealed arrest for the following violations:

- Murder
- False Imprisonment
- Kidnapping
- Burglary
- Assault with a Deadly Weapon
- Inflict Corporal Injury on Spouse or Cohabitant
- Driving Under the Influence and Reckless Driving

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 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.

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.' [citation] 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 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/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

In this case, there is no evidence whatsoever 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 Anderson a duty of care, the evidence does not support a finding that this duty was in any way breached -- either intentionally or through criminal negligence. Upon arrival at the IRC, the OCHCA staff completed a medical evaluation of Anderson. The staff discovered that Anderson suffered from hypertension, Benign Prostatic Hyperplasia (BHP), an overactive bladder, and diabetes. Because it was foreseeable that Anderson would need future medical attention, the OCHCA staff provided Anderson with the necessary medication and constantly monitored his health problems and addressed his concerns regarding pain.

The OCSD provided Anderson with a cane, walker, or wheelchair, at times, so he could move more easily throughout the jail facility. Additionally, the OCSD provided Anderson with a lower bunk assignment due to his limited mobility. Because it was known that Anderson suffered from a weak left arm due to past spinal surgery, the medical staff provided Anderson with physical therapy exercises. When the physical exercises did not help, he was sent to orthopedic care to treat his symptoms. Accordingly, the OCHCA staff went above and beyond to provide Anderson with the proper care for his limited mobility and his left arm.

Due to the global COVID-19 pandemic, it could be reasonably foreseen that Anderson could possibly contract COVID-19 while in custody. The OCHCA randomly tested Anderson out of concern for his health and safety even when he was not complaining of any symptoms. Once the OCHCA staff discovered that Anderson contracted COVID-19, the staff noticed a change in his condition and immediately transported him to UCIMC to obtain treatment when it became apparent he needed a higher level of care. During his time at UCIMC, Anderson refused intubation, which he was told by hospital staff was necessary for his treatment, and signed a DNR which prevented the medical staff from resuscitating him in the event his heart stopped. Up until this point in time, the OCSD did everything it could to accommodate Anderson and did not fail to act when Anderson sought treatment.

The OCSD provided the necessary and immediate medical care throughout his time in custody. At no time did the OCSD fail to act, act recklessly, or act with gross negligence to cause Anderson's death. Furthermore, the forensic pathologist determined that Anderson's legal cause of death was natural due to diffuse alveolar damage due to severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). For these reasons, the OCDA will not be able to prove beyond a reasonable doubt that the OCSD breached its legal duty of care it owed to Anderson and that OCSD criminally caused Anderson's death.

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 beyond a reasonable doubt that any OCSD personnel or any individual under the supervision of the OCSD failed to perform a legal duty causing the death of Anderson. The evidence shows that Anderson died as a result of diffuse alveolar damage due to severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) and that the death was a natural one.

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

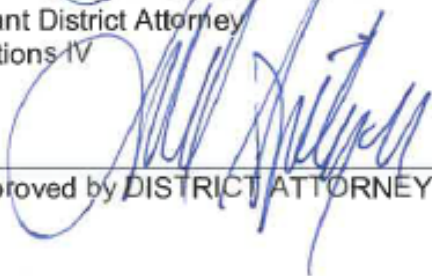
Respectfully submitted,



LEXIE ELLIOTT
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Read and Approved by **EBRAHIM BAYTIEH**
Senior Assistant District Attorney
Felony Operations IV



Read and Approved by **DISTRICT ATTORNEY TODD SPITZER**