



OFFICE OF THE  
**DISTRICT ATTORNEY**  
ORANGE COUNTY, CALIFORNIA  

---

TODD SPITZER

November 10, 2020

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

Re: Custodial Death on March 23, 2020  
Death of Inmate Guillermo Antonio Lopez  
District Attorney Investigations Case # SA 20-008  
Orange County Sheriff's Department Case # 20-010772  
Orange County Crime Laboratory Case # 20-43892

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 March 23, 2020 custodial death of 43-year-old inmate Guillermo Antonio Lopez.

**OVERVIEW**

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the custodial death of Lopez. In this letter, the OCDA describes the criminal investigative methodology employed, evidence examined, witnesses interviewed, facts discovered, and the legal principles applied to review the conduct 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 March 23, 2020 OCDA Special Assignment Unit (OCDASAU) Investigators responded to Anaheim Global Medical Center (AGMC), where Lopez died after receiving medical treatment. During the course of this investigation, the OCDASAU interviewed several witnesses, 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.

REPLY TO: ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

WEB PAGE: <http://orangecountyda.org/>

MAIN OFFICE  
401 CIVIC CENTER DR W  
P.O. BOX 808  
SANTA ANA, CA 92701  
(714) 834-3600

NORTH OFFICE  
1275 N. BERKELEY AVE.  
FULLERTON, CA 92832  
(714) 773-4480

WEST OFFICE  
8141 13<sup>TH</sup> STREET  
WESTMINSTER, CA 92683  
(714) 896-7261

HARBOR OFFICE  
4601 JAMBOREE RD.  
NEWPORT BEACH, CA 92660  
(949) 476-4650

JUVENILE OFFICE  
341 CITY DRIVE SOUTH  
ORANGE, CA 92668  
(714) 935-7624

CENTRAL OFFICE  
401 CIVIC CENTER DR. W  
P.O. BOX 808  
SANTA ANA, CA 92701  
(714) 834-3952

## **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. The District Attorney personally reviews and approves all officer involved shootings and custodial death letters. If necessary, the reviewing prosecutor may send the case back for further investigation.

## **FACTS**

On March 28, 2019, the Orange County District Attorney's Office filed multiple charges against Lopez, including driving under the influence, false identification to a police officer, and driving with a suspended license for a DUI conviction. On January 16, 2020 Lopez pled guilty to the charges and was sentenced to serve 180 days in jail.

On March 13, 2020, Lopez surrendered himself to Theo Lacy Jail Facility in the city of Orange. Upon arrival to Theo Lacy Jail Facility, an Orange County Health Care Agency (OCHCA) nurse conducted an intake medical screening of Lopez and found that Lopez was suffering from Type 2 diabetes and that he had been prescribed diabetes medication. Furthermore, the nurse learned that Lopez last consumed alcohol on March 12, 2020 and he usually consumed 12 to 14 beers a day. Lopez denied any flu like symptoms and was negative to all three COVID-19 questionnaires. Lopez was provided with detoxification medication and was placed in regular housing In Module F, Barracks F. Lopez was assigned to lower bunk 13, but ended up changing to the upper bunk 12.

On March 14, 2020, Lopez was climbing down his bunk and lost his footing. Lopez fell towards the floor and landed on his back. Lopez laid still on the ground for a moment, then stood up to his feet. As he walked away from his bunk, three deputies immediately checked on his welfare. Lopez was evaluated by medical staff. Lopez sustained a contusion and was cleared to return to regular housing.

On March 15, 2020, Lopez was seen by a registered nurse for a follow up on his fall from the previous day. Lopez denied having any chest pains, headaches, blurry vision, or lightheadedness.

On March 16, 2020 Lopez was transferred to Men's Central Jail where he was housed in Module "C" Tank 11. Lopez was seen twice by medical staff. At the first checkup, Lopez reported a history of alcohol abuse. Lopez expressed that he previously suffered a seizure while withdrawing from alcohol

approximately a month before. The doctor also noticed Lopez walk with a slight limp and that Lopez had a right thigh contusion. Lopez reported that he had fallen from his bunk. At his second checkup, Lopez saw a registered nurse. Lopez denied chest pain, shortness of breath, dizziness, or headaches.

On March 20, 2020, at approximately 4:28 a.m., Lopez had a temperature check. Lopez had a body temperature of 104.7 degrees. Lopez complained of body aches, fever, runny nose, headache, nausea and a cough. Lopez also appeared flush and had the chills. Lopez was masked and isolated in Module R-55, Cell 13. Lopez had been working the laundry detail two days prior and had been housed in the main jail with possible sick contacts. Lopez was put into an influenza protocol. Lopez was given Tylenol, Motrin, Gatorade and cooling measures. At around 8:51 a.m., Lopez was seen by medical staff and he showed signs of his health improving with a body temperature of 98.3 degrees. The plan was for Lopez to receive further temperature checks, increase hydration and stay isolated. At around 9:30 p.m., Lopez was seen by medical staff again. Lopez reported that he was feeling good and denied any cough, shortness of breath and fatigue. Lopez' body temperature was 97.4 degrees. Lopez was given more Gatorade for fluid intake and was advised to notify staff if his conditions worsened or if there were any changes to his health. Furthermore, a swab was taken for COVID-19 and influenza analysis.

On March 21, 2020, a lab report showed that Lopez tested positive for Influenza A. Video surveillance showed medical staff meeting with Lopez. At around 2:43 a.m., medical staff met with Lopez. Documents referenced a vitals check and a Gatorade pitcher for hydration at 5:08:15 a.m. and 5:09:07 a.m. being given to Lopez; however, this was not observed on surveillance video. At 8:20 a.m., medical staff are seen going to Lopez' cell, interacting with him, and Lopez drinking from a cup. A "Treatment Administration" sheet listed medication being administered to Lopez at 9:14:46 a.m., but this was not observed on video surveillance. At 10:48 a.m. a deputy and a medical staff member went to Lopez' cell and the medical staff member took his temperature. Lopez had a body temperature of 98.6 degrees. At 11:15 a.m., a medical staff member appeared at Lopez' cell and gave him a cup for him to hydrate. At 2:07 p.m., medical staff appear to talk to Lopez at his cell and give him medication. At around 8:21 p.m., surveillance video footage showed Lopez limping in his cell. At 9:21 p.m., medical staff appear to speak to Lopez briefly. At 10:19 p.m., surveillance video footage showed Lopez leaving his cell, limping, and walking very slowly to the door where medical staff was waiting. Lopez reached the door and obtained something from medical staff. Lopez then limped and walked slowly back to his cell. Throughout the day, deputies consistently conducted cell checks and walked by Lopez' cell.

On March 22, 2020, Lopez' lab results returned and were negative for COVID-19. At around 1:20 a.m., surveillance video footage showed Lopez in his cell sitting down with his head hanging. At around 3:00 a.m. Lopez left his Module and reentered shortly thereafter with a cup in his hand. At around 4:50 a.m. Lopez is seen waving. Lopez subsequently made a waving motion again. At approximately 5:29 a.m. while conducting cell checks, a deputy stopped at Lopez' cell. At approximately 8:11 a.m. medical staff met with Lopez. For the next several hours Lopez remained in his cell moving around and at one point possibly stumbling. At around 12:08 p.m. a deputy approached Lopez' cell and signaled a thumbs up motion to Lopez as he walked by. At around 1:00 p.m. medical staff and a deputy approached Lopez' cell and assisted him. Later in the day, at around 2:01 p.m., a deputy checked on Lopez and motioned a thumbs up to Lopez. Then, at around 2:58 p.m., a deputy went to Lopez' cell and they spoke briefly. At around 3:38 p.m. Lopez called his mother. Lopez discussed his physical condition and eventually decided to go to his cell and lie down, telling his mother he had a high fever. The phone call ended at 3:43 p.m.

At around 7:14 p.m. a deputy was conducting cell checks and stopped at Lopez' cell. At around 9:11 p.m. medical staff and a deputy went to Lopez' cell and appeared to give him medication and a cup to hydrate. Lopez' drug administration history listed that medication was administered to Lopez at 10:03:54 p.m.; however this was not observed on surveillance video.

On March 23, 2020, at approximately 2:03 a.m. a deputy was conducting cell checks and conversed with Lopez for a short time. At around 2:46 a.m. surveillance video footage shows Lopez leaving his module and reenter at approximately 3:24 a.m. A "Treatment Administration" sheet listed a vitals and blood glucose check at 4:00:22 a.m. and 4:00:54 a.m. respectively; however this was not observed on surveillance video. At around 5:36 a.m., a deputy walked by Lopez' cell to check on him and they appeared to talk to each other. At around 6:24 a.m., a deputy returned to Lopez' cell and the deputy appears to look back, bring his hand below his chin, and move it side to side. This motion commonly means to "stop" something. UCI lab results came back and illustrated that Lopez' sodium levels were low.

At 8:15 a.m. medical staff and a deputy approached Lopez' cell and they appeared to be conversing. At around 8:30 a.m. an OCHCA nurse notified an OCHCA nurse practitioner of Lopez' low sodium level. At around 8:46 AM a nurse practitioner and a deputy returned to Lopez' cell and appeared to hand Lopez a cup. Lopez stated that he had flu-like symptoms for the last six days and he had been dealing with a cough, body aches, a fever and chills. At the moment, Lopez reported to feeling dizzy, nauseous, and unsteady. Lopez also was reported to be pale looking and lethargic and had unsteady gait when moving from his bunk to the chair in his cell. The nurse practitioner planned on having Lopez transferred to the emergency room for IV fluid hydration. At around 9:27 a.m. Lopez left his cell and walked towards the telephones. Video surveillance showed that Lopez appearing weak and with an unsteady gait. Lopez called his mother, discussed his medical condition and told her he was going to be transferred to the hospital. At around 9:31 a.m. Lopez got off the phone with his mother and sat at one of the common tables. Lopez then urinated and soiled himself while sitting at the table. Lopez subsequently cleaned himself up and took a shower.

At around 10:22 a.m. video surveillance showed Lopez attempting to exit the shower and he appeared to be unstable walking out. At around 10:24 a.m. Lopez walked towards the common tables with an unsteady gait, he hunched over, tried to grab onto the table, and fell forward to the ground onto the left side of his body. Shortly thereafter, deputies entered Module R-55 and summoned medical aid. At around 10:30 a.m. medical personnel entered into Module R-55 and rendered assistance. At around 10:45 a.m. Orange City Fire Department (OCFD) Paramedics arrived at Module R-55 to check on Lopez' condition. Lopez was alert and complained of pain to his right leg, a leg that he mentioned he injured before. Fire personnel noticed there was bruising on Lopez' right hip and thigh. Lopez also complained of head, neck, and back pain. It was also reported that Lopez seemed to be short of breath. However, Lopez explained he wasn't short of breath, rather his mouth was just dry. OCFD cancelled medical transportation of Lopez to the emergency room because it was pre-determined that Lopez was to be transported to the hospital and because they only took critical patients. At around 10:54 AM OCFD left Module R-55 and Lopez returned to his cell.

At around 11:23 a.m. deputies approached Lopez' cell with a wheelchair and transported Lopez to AGMC. At around 12:00 p.m. Lopez arrived at the AGMC Emergency Room (ER). After conducting an interview with the nurse who saw Lopez, it was determined that Lopez was suffering from shortness of breath and had a body temperature of 102.3 degrees. Lopez was also suffering from hallucinations in the ER and appeared to be trying to talk to his mother. Lopez was removed from the ER and taken to bed 2 at around 5:30 p.m.. Lopez was given Tylenol for his elevated body temperature. At around 7:55 p.m., the attending ER physician was called to assess Lopez' condition,

as Lopez went into cardiopulmonary arrest. The ER physician saw that Lopez was not ventilating properly. At 7:57 p.m., the physician intubated Lopez and cardiopulmonary resuscitation was performed. Lifesaving efforts were attempted but failed. The attending physician pronounced Lopez dead at 8:25 p.m.

### **EVIDENCE COLLECTED**

The following items of evidence were collected and examined:

- 38 photographs
- Blood samples from Lopez
- Blood Standard post-mortem
- 61 photographs post mortem

### **AUTOPSY**

On March 26, 2020 Forensic Pathologist Dr. Scott Luzi of Clinical and Forensic Pathology Services conducted an autopsy on the body of Lopez. At the conclusion of the autopsy, Dr. Luzi concluded that Lopez had abscesses to his left lung and a lung infection present. Furthermore, Dr. Luzi noticed Lopez had an enlarged heart and “suspicious” bruising to his left wrist and lower extremities. Dr. Luzi did not determine the bruising to be life threatening. Dr. Luzi concluded that Lopez’ cause of death was “complications of pneumonia.” Furthermore, Dr. Luzi noted the following other conditions: hypertensive cardiovascular disease; cirrhosis associated with chronic alcohol abuse; and a history of influenza type A infection. Dr. Luzi determined that Lopez’ manner of death was natural.

### **EVIDENCE ANALYSIS**

#### **Toxicological Examination**

A sample of Lopez’ postmortem blood yielded the following results:

<b>DRUG</b>	<b>MATRIX</b>
Acetaminophen	Detected
Atropine	Detected
Caffeine	Detected
Dextrophan/Levorphanol	Detected
Metformin	Detected

### **BACKGROUND INFORMATION**

Lopez had a State of California Criminal History record that revealed arrests dating back to 2016 for the following violations:

- Driving Under the Influence
- Driving Unlicensed
- Driving with a Suspended License
- False Identification to Peace Officers

### **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 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.' [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 present case, there is no evidence of express or implied malice on the part of any OCSO personnel or any inmates or other individuals under the supervision of the OCSO. 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 OCSO owed Lopez a duty of care, the evidence does not support a finding beyond a reasonable doubt that this duty was in any way breached, either intentionally or through criminal negligence. Rather, review of surveillance video, and all other relevant evidence reveals that OCSO personnel consistently exercised reasonable care in dealing with Lopez. Lopez was isolated from the general population after developing flu-like symptoms. He was given fluids, medication, and his temperature was checked daily. His well-being was checked hourly by deputies. Emergency medical attention was summoned as soon as he was found on the floor the morning of March 23 and he was hastily transferred to the Emergency Room. Although OCSO personnel conducted their duties in a diligent manner, they were not able to prevent Lopez from becoming severely ill and succumbing to his illness. The evidence supports a conclusion that OCSO personnel conducted their duties in a reasonable manner and responded effectively and appropriately upon discovery of Lopez' situation.

Upon arrival to Theo Lacy Facility on March 13, 2020 Lopez did not exhibit any flu-like symptoms. Once Lopez complained of his symptoms on March 20, 2020 medical staff consistently monitored his temperature and vitals on a daily basis. On March 20, when Lopez developed a body temperature of 104.7 degrees, they isolated him from the general population, put him in the Influenza protocol, gave him fluids, and gave him medication to help with the fever. As the day progressed, Lopez showed signs of his health improving and by 9:30 PM, he had a body temperature of 97.4 degrees and reported feeling better. Medical staff then told Lopez to let them know if his condition worsened and gave him fluids to hydrate. On March 21, Lopez' condition continued to improve as his temperature normalized and he had no complaints about his health. OCSO personnel also made sure to test Lopez for influenza and COVID-19.

On March 22, 2020, lab results came back and Lopez was negative for COVID-19, but positive for Influenza A. Lopez explained to his mother that he was placed in quarantine, wasn't feeling good, and that he needed to lie down because he had a high fever. Medical staff and deputies regularly checked on Lopez' well-being. Video surveillance shows deputies consistently conversing and checking on Lopez' health throughout the day and medical personnel monitoring his vitals and making sure he was drinking his fluids.

On March 23, 2020, Lopez was seen by medical personnel and monitored several times. Deputies conducted several cell checks of Lopez' cell and surveillance video shows deputies conversing with Lopez. UCI lab results arrived and showed that Lopez sodium level was low. At around 8:46 a.m. a nurse practitioner went to Lopez' cell and assessed his health. Lopez complained of feeling dizzy, nauseous, and unsteady. Lopez was also reported looking pale and lethargic. After assessing his

health, the nurse practitioner made sure Lopez continued to hydrate and scheduled Lopez to be transferred to the ER for IV fluid hydration. Lopez called his mother after being seen by the nurse practitioner and explained to her that he was going to be transferred to the hospital and that he had influenza. At 10:24 a.m. when Lopez collapsed while walking from the shower, deputies immediately came to his aid. Medical personnel rendered aid within minutes of deputies arriving. OCFD paramedics arrived at 10:45 a.m. and Lopez was sitting up and responsive. At 11:23 a.m. Lopez was wheeled in a wheelchair out of his cell and transferred to the ER. It is apparent from all the gathered evidence from this day that deputies and medical personnel performed their duties in a reasonable manner.

There is no evidence to prove beyond a reasonable doubt that OCSD deputies and Theo Lacy medical staff failed to perform a legal duty, nor can their actions be classified as criminally negligent. In order for the OCDA to file criminal charges relating to Lopez' death, we must be able to prove beyond a reasonable doubt criminal culpability, including causation as described above. The OCDA is not able to meet this burden of proof based on the all of the available evidence. Additionally, Lopez' death was not the result of any act, or failure to act, by OCSD personnel. Thus, there is no evidence to support a finding that any OCSD personnel or any individual under the supervision of the OCSD failed to perform a legal duty causing Lopez' 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 Lopez.

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

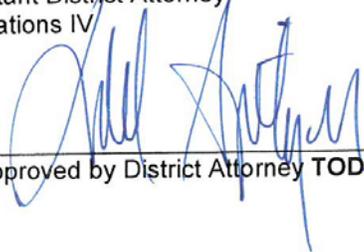
Respectfully submitted,



**DOMINIC BELLO**  
Deputy District Attorney  
Gangs Unit



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



Read and Approved by District Attorney **TODD SPITZER**