LOS ANGELES COUNTY
Office of Independent Review
4900 SOUTH EASTERN AVENUE, SUITE 204
COMMERCE, CALIFORNIA 90040
TELEPHONE (323) 890-5425
www.laoir.com

MICHAEL J. GENNACO

BENJAMIN JONES
ROBERT MILLER
JULIE RUHLIN
CYNTHIA L. HERNANDEZ
ANGELICA A. ARIAS

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Chair Gloria Molina
Supervisor Michael D. Antonovich
Supervisor Don Knabe
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavskly
Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

Re: Office of Independent Review of LASD Investigation of In-Custody Death of Inmate Marlon Martinez And Allegations Made by Inmate Martinez Prior to His Death

I. INTRODUCTION

Early in the morning of December 25, 2009, Marlon Martinez, an inmate in Men's Central Jail ("MCJ") facility, and Mexican national, died in the custody of Los Angeles County Sheriff's Department ("LASD" or "Department") while awaiting trial for murder. Shortly after Mr. Martinez' death, LASD investigators notified the on-call attorney for the Office of Independent Review ("OIR"), and the OIR attorney rolled to MCJ and began actively monitoring LASD's investigation into and review of the circumstances surrounding Mr. Martinez' death. The Homicide Bureau conducted the primary investigation into Mr. Martinez' death, and Internal Affairs Bureau ("IAB"), Custody Support Services ("CSS"), and Risk Management Unit ("RMU") conducted secondary internal investigations, reviews and assessments to determine whether any MCJ personnel violated Department policies, procedures or training and to determine whether any reform of Department policies, procedures or training are required to minimize such an inmate death.

All LASD personnel who investigated or reviewed the circumstances of Mr. Martinez' death, worked in a collaborative manner with each other, and kept the OIR attorney fully informed of their investigatory activities and findings. Moreover, each investigative unit was receptive to OIR's recommendations regarding the same.

Homicide Bureau personnel thoroughly investigated the circumstances surrounding Mr. Martinez' death, including the interviewing of witnesses and collecting of available evidence. IAB and CSS personnel evaluated whether MCJ personnel followed established policies, procedures and training. RMU personnel evaluated whether the death evidenced systemic issues in need of Departmental attention.

From Christmas Day 2009 through the present, OIR has monitored these various investigatory and review activities. To date, based on that review, OIR has determined that the various LASD investigating personnel conducted thorough investigations and reviews into the circumstances surrounding Mr. Martinez' death and conduct of MCJ personnel. [1]

The Los Angeles County Coroner's Office concluded that the cause of Mr. Martinez' death was an accidental overdose of heroin. This finding is consistent with the witness statements and evidence collected by LASD personnel.

Shortly after Mr. Martinez' death, allegations surfaced that Mr. Martinez, while still alive had told others that he was in fear for his life because he had witnessed jail deputies fatally beat another inmate. This allegation was investigated and the likely force incident witnessed by Mr. Martinez was identified. Contrary to the allegations, that incident did not result in the death of the inmate and the force had been found to be justified by the Department. In fact, the force incident by the deputies was in response to them observing one inmate stabbing another inmate and their efforts to stop the assault and bring the aggressor under control. As a result of the stabbing, the inmate whom force was used is currently awaiting trial for attempted murder. OIR conducted an independent review of the Department's force investigation and concurred that the force was justified and within Department policy.

II. FACTUAL SUMMARY

The Circumstances Surrounding Martinez' Death

On December 25, 2009, at approximately 9:30 a.m., the on-call OIR attorney received notification of an inmate death at MCJ and responded to the jail. The deceased inmate was identified as Marlon Martinez. At the time of his death, Mr. Martinez shared a four-person cell with three cellmates. Pending the arrival of homicide investigators, MCJ personnel had properly removed Mr. Martinez' cellmates and secured the cell in which Mr. Martinez had been housed. Upon arrival at MCJ, homicide investigators conducted a preliminary inspection of Mr. Martinez' body and cell and briefly questioned MCJ personnel as well as Mr. Martinez' cellmates. At the conclusion of this preliminary inquiry, homicide investigators briefed representatives from IAB, CSS, RMU, and OIR.

[1] Recently, LASD commenced an administrative investigation into the response time of Department personnel after Mr. Martinez was discovered in distress. OIR will monitor that investigation and report on the outcome as well as the thoroughness of the remaining investigation upon its conclusion.

At the initial briefing, homicide investigators provided the following preliminary information: In and around July 2008, the Long Beach Police Department arrested Mr. Martinez on suspicion of murdering a professor. Since July 2008, Mr. Martinez has been in the county jail system. On the evening of December 24, Mr. Martinez made a number of telephone calls. His cellmates stated that overhearing him on the telephone, Mr. Martinez appeared despondent and that before going to bed, Mr. Martinez ingested a brownish liquid. Approximately 6:50 a.m. on Christmas Day, Mr. Martinez was lying in bed, unresponsive and not breathing. As a deputy conducted security checks in the module and approached Mr. Martinez' cell, Mr. Martinez' cellmates alerted the deputy that Mr. Martinez was unresponsive and not breathing.

The deputy conducting the security check alerted other deputies to Mr. Martinez' unresponsive condition and need for medical attention. Jail personnel called for paramedics; paramedics arrived at the cell and unsuccessfully tried to revive Mr. Martinez. At approximately 7:20 a.m., Mr. Martinez was pronounced dead on scene.

At the conclusion of the briefing, homicide investigators led IAB, CSS and RMU personnel and the OIR attorney on a walk-through of Mr. Martinez' jail cell. Observations of Mr. Martinez and the jail cell revealed the decedent lying on a mattress on the floor of the cell. There was evidence of medical debris and equipment that had been used in the attempt to revive him, a pinkish vomit-type substance that appeared to have emanated from Mr. Martinez' mouth, and blood on the mattress and Mr. Martinez. There did not appear to be any visible trauma or markings on Mr. Martinez' body that would indicate any type of physical violence.

After the walk-through, Department investigators and the OIR attorney convened and discussed the next steps of the investigation. During this discussion, the investigators developed an investigative plan and answered OIR's questions regarding the plan. The investigative plan included the interview of certain witnesses and the collection of evidence and records, including jail telephone records.

Over the next several weeks, Department investigators confirmed much of the information presented in the initial briefing. Witness interviews and analyses of records demonstrate that the following occurred: In July 2008, Long Beach Police Department officers arrested Mr. Martinez on suspicion of murdering an African-American university professor. Since shortly after his arrest, Mr. Martinez had been in LASD custody. During his 16-month stay in the county jail system, Mr. Martinez had been medically and psychologically screened, and medical and psychiatric personnel found him suitable for housing in general population.

On Christmas Eve, Mr. Martinez tried to call family members on the telephone located in his cell; however, there were not enough available minutes on the family members' calling cards to complete the calls. According to cell mates, after trying to place the calls, Mr. Martinez appeared despondent, and before going to sleep,

Mr. Martinez snorted a spoonful of brownish liquid. A recovered "kite" message, or message sent from one inmate to another, also indicated that Mr. Martinez had used drugs on Christmas Eve.

At approximately 6:50 a.m. on Christmas Day, a deputy conducted a security check of Mr. Martinez' module, and as the deputy approached Mr. Martinez' cell, his cellmates informed the deputy that Mr. Martinez, who was lying on his bed, was unresponsive and not breathing. Department personnel called 911 and requested paramedics at MCJ. Paramedics arrived at MCJ and moved Mr. Martinez to the floor of his cell. Upon being moved to the floor, Mr. Martinez began spitting up an excessive amount of blood. Paramedics began administering life-saving measures to revive Mr. Martinez. Those efforts were unsuccessful, and Mr. Martinez was pronounced dead at approximately 7:15 a.m.

On December 28, a few days after Mr. Martinez' death, a medical examiner from the Los Angeles County Coroner conducted an autopsy of the decedent. The Medical Examiner reported no discernible signs of trauma on the body. The toxicology results revealed a high level of heroin in the decedent. According to the autopsy report, the cause of Mr. Martinez' death was heroin intoxication, and the manner of death was deemed accidental.[2]

In addition to the homicide investigation, the Department conducted, or continues to conduct, other investigations or inquiries related to Mr. Martinez' death. As with the discovery of any contraband in the county jails, the Department conducted an investigation into the source of the heroin that Mr. Martinez possessed and ingested. The Department's investigation into the source of the heroin determined that Mr. Martinez was holding the heroin for one or more other inmates in the county jail system. [3]

In addition to the investigation into the circumstances surrounding Mr. Martinez' death, the Department inquired into whether custody personnel made the requisite security checks and concluded that timely checks were conducted. OIR reviewed that inquiry and concurred with this conclusion.[4]

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[2] While as noted in this correspondence, there was some evidence of despondency on behalf of Mr. Martinez, that evidence could not conclusively establish that Mr. Martinez' death was a suicide as opposed to an accidental overdose.

[3] The fact that Mr. Martinez died of a drug overdose while in jail is unfortunate and one unfamiliar with the County jail setting could certainly question how he obtained illicit drugs while in custody. The fact of the matter is that inmates are able at times to gain access to illicit drugs while in County jail. In this case, there was no evidence that suggested either nonfeasance or malfeasance on behalf of jail staff in the inability to successfully interdict the illicit drugs.

[4] As noted above, IAB recently began investigating the circumstances regarding the timing of the administration of medical treatment to Mr. Martinez. OIR continues to monitor that IAB investigation and will report out the result upon its completion.

Allegations Made by Mr. Martinez Prior to His Death

Commencing January 2010, IAB investigated an allegation that the death of Mr. Martinez may have been caused by LASD deputies as a result of Mr. Martinez witnessing deputies fatally beating an inmate in late September or early October 2009. According to the initial information, prior to his death Mr. Martinez' had related this information about the concern for his well being and prior fatal beating to other persons.

After receiving this information, IAB investigators began interviewing witnesses and reviewing use of force incidents that occurred within the timeframe. As a result, IAB investigators were able to identify a use of force incident that occurred in early October that Mr. Martinez' may have witnessed. This incident occurred in a module in which Mr. Martinez was housed at the time. The incident involved an inmate who possessed a shank and attacked another inmate. The inmate stabbed the victim inmate several times in the head and upper torso.

When the armed inmate refused to comply with deputies' commands to drop the shank, deputies conducted a takedown of the inmate. On the floor, the armed inmate began kicking and punching deputies, and deputies deployed a number of force options to stop the inmate's aggression. Deputies deployed a Taser , but because the Taser darts did not fully connect with the inmate, the Taser had no effect. Deputies also deployed O.C. spray with little to no effect, and punched the inmate several times in an attempt to overcome his resistance. After a deputy delivered a "drive-stun" Tasing, activating the Taser with direct contact to the inmate's buttocks, deputies were able to gain control of the armed inmate and handcuff him. The victim inmate was transported to a local hospital for medical treatment. The force used by deputies in this incident did not result in the death of any inmate. When interviewed about this incident, the inmate that the deputies used force on did not complain about the force used on him. That inmate is alive and remains in jail, and as a result of this incident was charged and is awaiting trial for attempted murder.[5]

Shortly after the incident, the Department reviewed the force used on the armed inmate and determined the force used to be objectively reasonable, properly reported, and within Department policy. OIR reviewed the Department's review of the use of force incident and concurred with the Department's conclusions that under the circumstances,

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[5] Because Mr. Martinez is not alive, there cannot be any absolute certainty that this force incident was the one related by him. However, the similarities between what Mr. Martinez described regarding the circumstances surrounding the force, the time frame, and the fact that it occurred in the module in which Mr. Martinez was then housed all strongly suggest that this is the incident that Martinez had described. This is likely even though when interviewed contemporaneous with the incident, Mr. Martinez told investigators that he had not witnessed the incident. Moreover, a review of all inmate deaths during the described time frame did not reveal any deaths resulting from injuries of the type one would sustain as a result of blunt force trauma.

the force used by deputies on the armed inmate was reasonable, properly reported, and within Department policy.

III. OIR'S ANALYSIS OF DEPARTMENT'S REVIEWS AND INVESTIGATIONS

During the course of the Department's reviews and investigations, OIR was, and continues to be, an active monitor. From the initial rollout to MCJ on Christmas Day to the present, Department investigators have interacted with OIR professionally and with the goal of determining the truth about what occurred. Throughout these reviews and investigations, OIR has received regular debriefings on the progress of the Department's homicide investigation and administrative reviews. Where necessary, OIR requested further investigation into specific areas, and those requests have been expeditiously and thoroughly pursued. Each Department review and investigation has been thorough and performed without delay.

Unfortunate as it is, the evidence suggests that feeling despondent, Mr. Martinez ingested heroin and caused his own death by accidentally overdosing on the heroin. There is no evidence that Mr. Martinez was a habitual user of heroin. The completed administrative reviews and investigations revealed no inadequacies in the Department's policies, procedures or training. MCJ personnel made appropriate and timely security checks, and when they found Mr. Martinez unresponsive and not breathing, MCJ personnel called for paramedics and medical treatment. MCJ personnel properly preserved Mr. Martinez' cell until Department investigators arrived on scene.

The Department investigated thoroughly and expeditiously the allegation that Mr. Martinez' death resulted from deputies in retaliation for his possibly witnessing the fatal beating of another inmate. In that incident, deputies used force to stop an armed inmate from stabbing to death another inmate. The inmate upon whom deputies used force is alive and facing felony criminal charges resulting from that assault. No inmate died as a result of the deputies' use of force. Thus, there is no evidence that Mr. Martinez' death was caused by deputies or in retaliation for his possibly witnessing a beating death of another inmate.

IV. CONCERNS RAISED BY CONSUL GENERAL OF MEXICO

During the course of OIR's review, we received an inquiry about this case from the Mexican Consul General. In response, we visited representatives from the Consulate and learned of their concerns regarding the circumstances surrounding Mr. Martinez' death and whether his alleged witnessing of an earlier "beating' may have been connected to his demise. We have provided the Consulate with updates on the status of our review.

In addition to the circumstances surrounding the Martinez' death, the Consul General expressed concern regarding the failure of Departmental authorities to timely notify the Consulate of the death of a foreign national pursuant to international treaty.

When we notified the Sheriff of this concern, the Department promptly responded by conducting and disseminating training and briefing on this issue, reminding Department members of its notification responsibilities. We will continue to work with the Department to develop more robust systems in an effort to ensure timely notification when foreign nationals expire in the County jails.[6]

V. CONCLUSION

OIR's review of the allegations surrounding Mr. Martinez' demise and the related allegations about another inmate being fatally beaten by deputies found no evidence of misconduct on behalf of Departmental members. Please contact us if you have questions about the matters discussed herein.

Very truly yours,

MICHAEL J. GENNACO
Chief Attorney
Office of Independent Review

BENJAMIN JONES
Deputy Chief Attorney
Office of Independent Review

cc: Vicky Santana, Justice Deputy, Chair Gloria Molina
Carl Gallucci, Justice Deputy, Supervisor Don Knabe
Anna Pembedjian, Justice Deputy, Supervisor Michael D. Antonovich
Randi S. Tahara, Board Deputy, Supervisor Mark Ridley-Thomas
Joseph P. Charney, Justice Deputy, Supervisor Zev Yaroslavsky
Richard Fajardo, Justice Deputy, Supervisor Mark Ridley-Thomas

Leroy D. Baca, Sheriff
Larry L. Waldie, Undersheriff
Dennis H. Burns, Chief, Custody Operations Division
Roberta A. Abner, Chief, Leadership and Training Division
William J. McSweeney, Chief, Detective Division
Michael J. Parker, Captain, Office of the Undersheriff

Jackie White, Deputy Chief Executive Officer, Chief Executive Office
Andrea Sheridan Ordin, County Counsel, Office of the County Counsel

[6] As a result of our continued meetings with representatives of the Consulate, we are following up on additional issues raised by them about this matter. Should our follow up reveal significant additional issues, we will discuss them with you in a subsequent report.