



April 12, 2013

Douglas N. Darr, Adams County Sheriff
Adams County Sheriff's Office
332 North 19th Ave.
Brighton, CO 80601

Re: The investigation of the death of Jorge Ortiz-Marin at the Adams County Detention Facility at 150 N. 19th Avenue, Brighton, Colorado originating on September 7, 2012.

Dear Sheriff Darr:

The investigation and legal analysis of the death of Jorge Ortiz-Marin while in-custody at the Adams County Detention Facility originating on September 7, 2012 has been completed. Detective Jim McKenzie of the Adams County Sheriff's Office conducted the investigation and forwarded his reports, photos and other documents to the office of the Seventieth Judicial District Attorney for our review. Based on the evidence presented, Mr. Ortiz-Marin died of asphyxia due to hanging. The manner of death was suicide. Therefore, no criminal charges will be filed against anyone in this matter.

A statement of the investigation including a description of the procedure used in the investigation of this in-custody death by Detective Rapper and the applicable legal analysis follows.

STATEMENT OF INVESTIGATION

On March 23, 2012, Jorge Ortiz-Marin was booked into the Adams County Detention Facility on the following charges: Two counts of Sexual Exploitation of a Child (F-3), two counts of Internet Sexual Exploitation of a Child (F-4), Sexual Assault on a Child (F-4), Extortion (F-4) and two counts of Stalking (F-5). On that same date the Department of Homeland Security placed an immigration detainer on Mr. Ortiz-Marin which included a no bond hold.

On September 7, 2012, at 5:39 PM, Mr. Ortiz-Marin, still in custody at the Adams County Detention Facility, was locked down in his cell, E-460, for a count of inmates (used to maintain accountability and the whereabouts of the inmates) as required by facility rules and regulations. The lockdown remained in effect until approximately 7:16 PM. At 5:47 and 6:27 PM, guards performed a row check, where they walk up to and look into each cell in the pod. Both times, the guard checking on Mr. Ortiz-Marin reported nothing out of the ordinary. There should have been an additional row check thirty minutes later, at 6:57 PM, but all the guards were in briefing with the guards that were to begin for the next shift. His cell was in direct view of one of the surveillance cameras in the pod, and video shows no one approaching or entering the cell, other than the guards doing their row checks, as mentioned above. It also shows movement in Mr. Ortiz-Marin's cell up until approximately 6:51 PM.

After the inmates were released from their cells at 7:16 PM, the door to Mr. Ortiz-Marin's cell remained closed. It wasn't until 7:51, when fellow inmate Oscar Lopez de Leon noticed the light to Mr. Ortiz-Marin's cell was off and that toilet paper now covered the window. He went to the door of the cell, turned on the light, and it was then he discovered Mr. Ortiz-Marin hanging from the top bunk. Mr. Ortiz-Marin had created a noose of sorts from the sheets of his bed, tied one end to the top bunk and the other around his neck and then let the weight of his body create the force necessary to asphyxiate himself. Mr. Lopez de Leon, with the help of other inmates, lifted the body of Mr. Ortiz-Marin so that the knot at the bed could be untied and the knot around his neck could be loosened. Other inmates in the pod notified jail personnel of the situation. Guards entered the pod at approximately 7:52 PM, ordered the inmates back into their cell and immediately called for medical response. At 7:55 PM, a nurse assigned to the jail began CPR. At 8:01 PM, Platte Valley Ambulance arrived and at 8:03 PM the Brighton Fire Department arrived. During this time, other nurses assigned to the detention facility arrived and, along with members of the Brighton Fire Department, continued resuscitation efforts until Mr. Ortiz-Marin was pronounced dead by Dr. Fred Williams from the Platte Valley Medical Center.

Detective Jim McKenzie arrived later and began his investigation. Upon searching the cell, a suicide letter was found. Later, Det. McKenzie determined Mr. Ortiz-Marin had been assigned a cellmate, Brian Martin, but that Mr. Martin had been sentenced to the Department of Corrections and been transferred out of the detention facility, leaving Mr. Ortiz-Marin without a cell mate. On September 9, 2012, Det. McKenzie interviewed Mr. Martin at the Denver Reception and Diagnostic Center. Mr. Martin advised he looked after Mr. Ortiz-Marin because of his small stature, but that he had gotten along with the other inmates. Mr. Martin said Mr. Ortiz-Marin had written a suicide letter around August 20, 2012, but that he, Mr. Martin, had talked Mr. Ortiz-Marin out of committing suicide. He further advised Mr. Ortiz-Marin had promised he wouldn't commit suicide and tore up the letter. He didn't believe Mr. Ortiz-Marin would ever commit suicide or Mr. Martin would have utilized the anonymous suicide hotline which was posted on the walls of the pod.

LEGAL ANALYSIS

Criminal liability is established in Colorado when it is proven beyond a reasonable doubt that someone has committed all of the elements of an offense defined by Colorado statutes, and it is proven beyond a reasonable doubt that the offense was committed without any statutorily recognized justification or excuse.

Based on the facts of this case, there are no crimes that anyone committed associated with Jorge Ortiz-Marin's death. As in any case, whether the actions taken by anyone were criminal are primarily a question of causation and secondarily a question of whether anyone acted with any culpable mental state.

For example, section 18-3-105 of the Colorado Revised Statutes defines **criminally negligent homicide**. It states, "Any person who *causes* the death of another person by conduct amounting to *criminal negligence* commits criminally negligent homicide which is a class 5 felony." (Emphasis added).

As to the requirement that an act accompany the culpable mental state of criminal negligence, it should be remembered that "criminal negligence" has a specific legal definition. "**Criminal negligence**" is defined in section 18-1-501(3) of the Colorado Revised Statutes. It states, "A person acts with criminal negligence when, though a gross deviation from the standard of care that reasonable person would exercise, he fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists."

The Colorado Supreme Court has ruled that criminal negligence, as applied to homicide, means a failure to perceive, through a gross deviation from the standard of reasonable care, a substantial and unjustifiable risk that death will result from certain conduct. People v. Taggart, 621 P.2d 1375 (Colo. 1981); People v. Shaw, 646 P.2d 375 (Colo. 1982).

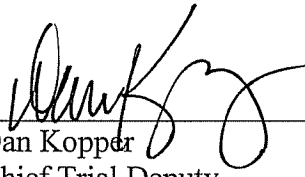
Here, the only person who knew anything about the intention of Mr. Ortiz-Marin was his former cellmate, Mr. Brian Martin. Mr. Martin chose not to tell anyone about what had taken place between himself and Mr. Ortiz-Marin, and Mr. Ortiz-Marin had chosen to keep this information to himself. Even if the next regularly scheduled row check had taken place at 6:57 PM, the 7 minutes between when movement was last seen in Mr. Ortiz-Marin's cell would have been ample enough time to asphyxiate himself. Additionally, it was 35 minutes between when the inmates were released from their cell before any of the inmates looked in Mr. Ortiz-Marin's cell and discovered his body, also more than enough time for him to commit suicide. Finally, an autopsy was performed by Dr. Michael Arnall of the Adams County Coroner's Office, and his findings were that the cause of Mr. Ortiz-Marin's death was suicide by asphyxiation.

Conclusion

As to the requirement of causation, it should be noted that Mr. Ortiz-Marin was in the Adams County Detention Facility due to the offenses charged. All of the evidence indicates Mr. Ortiz-Marin died as a result of suicide and there is no indication the detention facility personnel contributed to his death.

If you have any questions pertaining to this report or findings and conclusions, please contact me.

Respectfully;



Dan Kopper
Chief Trial Deputy
Adams County District Attorney's Office