

RIVERSIDE COUNTY SHERIFF'S DEPARTMENT

Response to Specific Findings and Recommendations

FINDINGS:

Number 1:

COUNTY AUTOPSY AGREEMENT

The Riverside County Coroner's office has the authority under California Government Code §27490, *et seq.*, to investigate specific deaths in-custody and/or within its jurisdiction. The Review is completed in-house with no independent or neutral County Coroner's Office participation. However, toxicology testing is conducted by an independent private firm and is used to ensure an unbiased finding of toxicology results. Although the Riverside County Sheriff Coroner's Department is staffed with well-qualified, trained and professional personnel, there is the perception of a conflict of interest by the public.

No legal obligation currently exists requiring an autopsy be performed in an adjacent County whenever a person dies while in custody or in the presence of Law Enforcement. The Riverside Sheriff-Coroner's office had an agreement with Orange County from 1999-2005 to perform independent, neutral, in-custody death autopsies. The contract expired in 2005 and was not renewed.

San Bernardino County (SBC) has a current agreement with the RCSD to perform autopsies for SBC under similar circumstances. SBC acknowledges the benefit of public perception and trust, so in-custody death autopsies must be performed and reviewed by a neutral and un-involved party. This is reflected in the agreement signed by San Bernardino and Riverside counties.

Thirteen years have elapsed and no new adjacent county autopsy agreement has been negotiated with the Riverside Coroner's Office with acceptable terms.

The following reason as annotated in the Riverside Sheriff's Department Memorandum – Coroner's Bureau dated April 16, 2018 were given for allowing the agreement with Orange County to expire in 2005:

- *Lack of availability and/or delay of forensic pathologists from the adjacent county to perform an autopsy*
- *Lack of availability and/or delay of scheduling forensic pathologists from adjacent county for Coroner Review presentations*
- *Extensive delays in receiving cause of death and/or autopsy protocols*

- *Fiscal impact of services (average cost per autopsy-\$5,000)*
- *Coroner Review presentations provided transparency via oversight of public representatives (Grand Jury)*
- *Adjacent County provided cause of death only, manner of death determination remained with Riverside County Coroner*
- *Riverside County Sheriff's Department in-custody investigations are performed by Riverside County Sheriff's employee, not outsources*

Two areas listed above have misinterpretations which need addressing as follows:

- A. The statement that the Grand Jury provides oversight as part of public representation is misleading. The Grand Jury is invited as a guest, but as lay people, Grand Jury members may not always understand the technical terms used. Coroner reviews only answer the questions of manner, mode and cause of death. There is no California law compelling the Grand Jury to attend a Coroner's review. The Grand Jury has no legal authority over any Coroner's reviews.
- B. The Grand Jury is unaware of what transpires during the actual autopsy procedure and therefore the Grand Jury gets an abbreviated version of the autopsy, pathology, and toxicology results presented at each Coroner's review. If the Grand Jury has a concern, or needs additional information after the Review, they may request a full Coroner's packet.

The italicized statement below was annotated on the form submitted to the Riverside County BOS by the County Executive Office recommending the adoption of the San Bernardino contract for independent county autopsies. The same principle is applicable for Riverside County to contract with an adjacent county to perform independent autopsies for in-custody deaths.

The use of an independent party to conduct autopsy service for officer involved shootings and in custody deaths is integral to remove any actual or perceived conflict of interest.[sic]

Response:

Respondent disagrees partially with the finding.

Respondent Riverside County Sheriff's Department ("RCSD") disagrees with the characterization by the Grand Jury that "toxicology testing is conducted by an independent private firm and is used to ensure an unbiased finding of toxicology results" on the basis that it is inaccurate. RCSD utilizes various professional services, including those not available in-house, to perform specialized testing and/or examinations to assist in determining cause of death. Such services include, but are not limited to, toxicology, histology and neuropathology. Upon a thorough review of the circumstances surrounding the death, review of the autopsy findings and professional services testing results, to include toxicology, the cause, manner and mode of death are certified as provided by law.

Respondent RCSD agrees with the Grand Jury that there is a potential for a "perception of a conflict of interest by the public" with regard to its holding of a Coroner Review in certain instances. RCSD conducts a Coroner Review to review all in-custody or high-profile deaths, to include deaths occurring during or immediately following the arrest process, incarcerated or within a correctional facility, in the presence of law enforcement, within 24-hours of release of custody, or as determined by RCSD's Coroner's Bureau.

The Coroner Review is comprised of a panel of experts that includes RCSD's Coroner's Bureau chief forensic pathologist, the forensic pathologist assigned to conduct the autopsy, the Sheriff or his/her designee, Coroner's Bureau administration, a forensic toxicologist and the administrative deputy coroner. In addition, guests that are drawn from mostly outside entities are invited to attend RCSD's Coroner Reviews. Such attendees include, but are not limited to, the Office of the District Attorney (an independently elected public official), allied law enforcement agencies, prison and jail staff, medical personnel, and members of the Grand Jury.

Respondent RCSD is not aware of any instance of public controversy within the last eighteen (18) years involving an issue of a conflict of interest on the part of RCSD's Coroner's Bureau by the public in the performance of the duties required by law in its determination of cause, manner and mode of death.¹ However, Respondent RCSD acknowledges that the possibility exists that perceptions of a conflict of interest on a particular matter could develop in the future.

Respondent RCSD agrees that there is no legal obligation to require an autopsy be performed in an adjacent county whenever a person dies while in custody or in the presence of law enforcement. However, in recognition of the importance of

¹ California Government Code §§ 27460 et seq.

transparency and impartiality, RCSD's Coroner's Bureau voluntarily developed the Coroner Review process as a means of ensuring the integrity of in-custody death investigations and other high-profile cases.

Respondent RCSD also acknowledges the San Bernardino County Coroner ("SBCC") has a current contract to perform "necessary medical services and provide findings for conflict autopsies such as Deputy-involved or in-Sheriff's-custody deaths and other deaths as San Bernardino deems necessary". However, RCSD's Coroner's Bureau has no knowledge of the precipitating factors, if any, that led to the SBCC's decision to request RCSD's Coroner's Bureau to conduct autopsies on their behalf. RCSD's Coroner's Bureau provides SBCC with a recommended cause of death under the current contract. However, the SBCC continues to certify the cause of death and determines the manner and mode of death.

Respondent disagrees with the characterization by the Grand Jury regarding alleged misinterpretations within RCSD's Coroner's Bureau memorandum dated April 16, 2018 that the "statement that the Grand Jury provides oversight as part of public representation is misleading" on the basis that it is inaccurate as explained below.

The Grand Jury periodically participates in tours of RCSD's Coroner's Bureau, is provided a detailed, in-depth presentation by RCSD staff, and is invited to and has attended autopsy viewings. The autopsy viewings provide the Grand Jury with education and information on the process of autopsy procedures, autopsy findings, anatomy descriptions, natural disease processes and injury identification. In addition, the Grand Jury is invited to ask questions, both during autopsy viewings and at Coroner Review presentations. These opportunities provide the Grand Jury with unique insight into the various functions of RCSD's Coroner's Bureau and are intended to be helpful in assisting the Grand Jury's vital role of providing public oversight over local government.

Respondent RCSD acknowledges that there is no legal obligation to compel the Grand Jury to attend Coroner Review presentations nor direct legal authority over a Coroner Review. However, the Grand Jury has previously issued a minimum of three reports regarding RCSD's Coroner's Bureau and its predecessor Riverside County Coroner's Office with the most recent submitted during its 2014 – 2015 term.² The 2014-2015 report provided findings and recommendations specific to the Coroner Review process, some of which were implemented. Moreover, in its 1997-1998 report, the Grand Jury specifically recommended "Include two grand jury representatives to participate as observers at coroner investigation/hearings as an oversight to avoid an appearance of a conflict of interest." The Grand Jury is afforded access to the Coroner Review process, Coroner reports and documents, as

² 2014-2015, 1999-2000 and 1997-1998, <https://countyofriverview.us/Home/PastReportsResponses/2016-2017.aspx>.

well as to RCSD's Coroner's Bureau staff, to review and inquire into any aspect of the death investigation.

Respondent RCSD disagrees with the characterization by the Grand Jury regarding alleged misinterpretations within RCSD's Coroner's Bureau memorandum dated April 16, 2018 that it "is unaware of what transpires during the actual autopsy procedure" on the basis that is inaccurate. RCSD's Coroner's Bureau has, in fact, provided the Grand Jury with presentations and full autopsy viewings on numerous occasions to provide education and information on autopsy procedures. The most recent Grand Jury autopsy viewing occurred on June 20, 2018.

Respondent RCSD agrees with the Grand Jury that the same principle applicable to the contract with the SBCC of "the use of an independent party to conduct autopsy service for officer involved shootings and in custody deaths is integral to remove any actual or perceived conflict of interest" may prove helpful to RCSD's Coroner's Bureau in certain instances. However, RCSD's Coroner's Bureau has developed and implemented a Coroner Review process as one means of addressing the critical need for transparency and integrity of in-custody death investigations. RCSD has no knowledge of SBCC holding any comparable review.

Respondent RCSD can certainly reconsider its previous determination to no longer contract with an adjacent county to perform independent autopsies for in-custody deaths. Such a review would necessarily involve an examination of the primary factors which led to the termination of the prior agreement and to see if new favorable options are available that would support a return to a new contract between RCSD and another county.

RECOMMENDATIONS:

Number 1:

COUNTY AUTOPSY AGREEMENT

The RCSD Coroner, in conjunction with the Riverside County BOS, should initiate and negotiate an agreement with acceptable terms, with an adjacent County, to perform autopsies of in-custody deaths. In-custody deaths include those who die at the hands of law enforcement, in the presence of law enforcement, or those with recent contact with law enforcement. The integrity of the process should assure County citizens that Coroner's reviews are fair, unbiased, fostering a reputation of trust above reproach, and diminishing the perception of a conflict of interest.

Alternatively, consistent with California Government Code §27491.6, a Coroner's Inquest should be required in any circumstance when a person dies at the hands of law enforcement or in a situation with law enforcement involvement.

Response:

The recommendation requires further analysis.

Respondent Riverside County Sheriff's Department ("RCSD") absorbed the Riverside County Coroner's Office as part of a consolidation effort that took place in 1999. For the first six (6) years, RCSD contracted with Orange County to perform in custody autopsies. However, that contract was allowed to expire and not renewed due to the difficulties noted in the RCSD's Coroner's Bureau memorandum dated April 16, 2018 which has been reviewed by the Grand Jury. Primary factors that led to the determination of not renewing the contract included, but were not limited to, the following: 1) lack of availability and/or delays in having forensic pathologists from the adjacent county perform an autopsy; 2) lack of availability and/or delays in having forensic pathologists from the adjacent county put on Coroner review presentations; 3) extensive delays in receiving cause of death and/or autopsy protocols; and 4) budgetary constraints on the ability to cover the costs of outside autopsies.

The Grand Jury's recommendations will require further analysis by respondent RCSD in considering the feasibility of entering into a contract with another county to perform independent autopsies for in-custody deaths. Respondent RCSD is prepared to undertake a new analysis to determine if favorable conditions exist that would support a return to a new contract between RCSD and another county. A portion of such analysis would include taking into account the above-referenced primary factors associated with the termination of the prior agreement. It is anticipated that the analysis would be completed by December 2018.

RCSD's Coroner's Bureau may hold an inquest at its discretion, or if requested by certain officials to do so. An inquest allows for a jury to be seated and is required to be open to the public. The Grand Jury's finding above referenced the difficulty of understanding technical terms used, even with in-depth presentations and autopsy viewings. Respondent RCSD would assert that as such, a jury of lay persons would have an increased difficulty in understanding the complexity of death investigations and certifying the cause, manner and mode of death. In addition, RCSD would note that to the extent that certain in-custody deaths may involve ongoing criminal investigations, that it would be impractical to hold a public inquest that could potentially compromise the integrity of a criminal investigation. Therefore, due to the obstacles and cumbersome nature outlined above, Respondent RCSD would respectfully decline from implementing this alternative recommendation.