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May 24, 2024

Chief Wayne Dial  
Unified Police Dept. of Greater Salt Lake  
3365 South 900 West  
Salt Lake City, Utah 84119

Chief Ken Wallentine  
West Jordan Police Department  
8040 S. Redwood Road  
West Jordan, UT 84088

RE:	Death of Orlando Toro Garcia
Incident Location:	6283 S. Barton Park Drive, West Jordan, Utah
Incident Date:	August 27, 2023
UPD Case No.:	23-92463
WJPD Case No.:	23-45541
DA Case No.:	DAINV-2023-2058

Dear Wallentine and Chief Dial:

This letter addresses the August 27, 2023, death of Orlando Toro Garcia after he was placed in handcuffs by responding officers from West Jordan Police Department (“WJPD”).<sup>1</sup>

Following Mr. Garcia’s death, WJPD initiated the “Salt Lake County Law Enforcement Officer Involved Critical Incident (“OICI”) Investigative Protocol,” an agreement among participating law enforcement agencies designed to ensure compliance with Utah state law for OICI investigations. *See* Utah Code § 76-2-408(2)-(3). Pursuant to the protocol, an investigative task force was called in to investigate the OICI. The task force was led by the Unified Police Department (“UPD”) protocol team and comprised of law enforcement officers employed by agencies other than WJPD. After the investigation, on December 19, 2023, the task force’s findings were presented to the Salt Lake County District Attorney’s Office (“DA’s Office”), which has the constitutional and statutory mandate to screen such matters for possible criminal charges.<sup>2</sup> The DA’s Office has independently reviewed the facts developed from the OICI protocol investigation and reached its findings and conclusions in this matter.

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<sup>1</sup> WJPD Officers Matthew Collins and Nolan Butler were the initial responding officers.

<sup>2</sup> Utah Const. Art. VIII, section 16; Utah Code §§ 17-18a-203; *see also id.* at § 77-2-2(4) (defining “screening” as the “process used by a prosecuting attorney to terminate investigative action, proceed with prosecution, move to dismiss a prosecution that has been commenced, or cause a prosecution to be diverted”). “Commencement of prosecution” is further defined as “the filing of an information or an indictment.” *Id.* at § 77-2-2(1).

## SUMMARY OF RELEVANT FACTS

The following facts were developed from the OICI protocol investigation. Should additional or different facts subsequently come to light, the opinions and conclusions contained in this letter may change.

On August 27, 2023, at 1:42 a.m., a male who we refer to as “R. G.,” called 911, reported that he thought his brother, Orlando Toro Garcia, was overdosing, and requested an ambulance.<sup>3</sup> Over the police radio, dispatch advised of the call details—that the complainant’s “32-year-old brother is possibly overdosing, they had medical en route but the male’s in the background yelling that the caller ‘hid it’ from him,” and “they’re reporting that he is violent.” WJPD Officer Collins was dispatched, dispatch further advised that he was violent and “looking for things that aren’t there,” and Officer Butler was also dispatched.<sup>4</sup> Officers Collins and Butler “ran code”—with lights and sirens activated—to scene.

At 1:52 a.m., Officer Collins arrived first on scene, approached the front lawn of the residence, and made contact with R. G. and R. G.’s wife. As they spoke, Mr. Garcia remained further away on the front lawn, moving around, kneeling and partially sitting/laying on the ground.<sup>5</sup> Officer Butler also arrived and approached as Officer Collins obtained information from R. G. and his wife, who both denied knowing what Mr. Garcia had taken. Meanwhile, at 1:53 a.m., dispatch advised over the radio that medical was staged and asked to advise when it was clear for them.

At 1:53:49 a.m., Officer Collins first called out to Mr. Garcia as they approached him. Officer Collins introduced himself, and then calmly began asking him to lie on his stomach, telling him that they were going to get him help, and asking him to put his hands behind his back. As Officer Collins spoke with Mr. Garcia, Officer Butler addressed R. G. and R. G.’s wife—from 1:54:00 a.m. to 1:55:02 a.m.—asking them to back up, before also talking with Mr. Garcia, who was laying on his side, about putting his hands behind his back so that he could get medical attention.

After Officer Butler helped bring Mr. Garcia’s second hand behind his back, the officers placed handcuffs on him, and Officer Collins advised over the radio, at 1:55:30 a.m., that Mr.

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<sup>3</sup> During the 911 call, R. G. said he thought Mr. Garcia took cocaine, he was overreacting to it, he was looking for something that wasn’t there, he was breathing hard and had asthma, he was “freaking out,” he had possibly taken alcohol, and he had taken it possibly 20-30 minutes before. Notably, as the officers were not privy to the 911 call itself, we did not rely on its contents for the purpose of our screening analysis.

<sup>4</sup> The dispatch call log indicates that Officers Collins and Butler were dispatched at 1:45:38 a.m. and 1:46:16 a.m., respectively, to 6283 S. Barton Park Drive in West Jordan (R. G.’s residence). Emergency medical responders (“Fire”) were also dispatched and advised to stage.

<sup>5</sup> As he approached, Officer Collins first made contact with R. G.’s wife, who told Officer Collins that she did not know what Mr. Garcia was on and that they had woken her up, and then with R. G. R. G. initially told Officer Collins that Mr. Garcia didn’t have any weapons and he thought he was “like having a panic attack or something. He’s going crazy.” R. G. also advised that Mr. Garcia “took something,” and that he had used drugs in the past “but nothing like this, that does this,” that nothing physical had happened, and described, “He’s going crazy. He’s going crazy. There’s, like, he needs to be in a hospital for what, a day.”

Garcia was in custody. Mr. Garcia began to struggle against the restraints, Officer Collins continued to talk to him, reassuring him “you’re good” and telling him that he was making sure he didn’t have any weapons, and R. G. began grabbing Mr. Garcia’s legs. Officer Collins then addressed R. G.—from 1:55:41 a.m. through 1:56:12 a.m.—again trying to get him to back up.

The officers then moved Mr. Garcia to his side, Officer Butler began pulling grass out of his mouth, and, at 1:56:27 a.m., Officer Collins advised over the radio that it looked like Mr. Garcia was seizing or choking and asked for Fire to get there. Officer Collins assessed Mr. Garcia’s condition, removed one of the handcuffs, turned him onto his back, and, at 1:57:09 a.m., began CPR. After removing the second handcuff, Officer Butler advised over the radio that they were starting CPR at 1:57:21 a.m.

Almost immediately, by 1:57:25 a.m., Fire arrived on scene and then quickly took over medical efforts.<sup>6</sup> Fire continued providing emergency medical aid for over twenty minutes, however, Mr. Garcia did not regain consciousness. Mr. Garcia was pronounced deceased at 2:23 a.m.

Amanda L. Ho, M. D., with the Utah Office of the Medical Examiner performed an autopsy of Mr. Garcia’s body and determined that Mr. Garcia died as a result of mixed drug toxicity—cocaine, cocaethylene, oxycodone, and buprenorphine.<sup>7</sup> Dr. Ho also identified “physical restraint and resistance” as a significant condition.<sup>8</sup> In concluding that the actions of law enforcement may have contributed to death, Dr. Ho opined: “While the physiologic mechanism of death during restraint is not completely known, an exertion such as this can exacerbate the stress already placed on his cardiovascular system by his cocaine usage.”<sup>9</sup>

## EVIDENCE DERIVED FROM PROTOCOL INVESTIGATION

During the protocol investigation, Officers Collins and Butler refused to be interviewed by investigators about the incident, as is their constitutional right.<sup>10</sup> Protocol investigators collected and reviewed physical evidence, including but not limited to: body-worn camera recordings, dash camera recordings, surveillance video recordings, dispatch recordings and logs, evidence documenting the scene, and the autopsy findings.<sup>11</sup>

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<sup>6</sup> Officer Butler first spoke to arriving medical responders at 1:57:25 a.m.

<sup>7</sup> Dr. Ho’s report is dated December 5, 2023. In her diagnosis, Dr. Ho found: (a) “[c]ocaine and metabolite benzoylecgonine, cocaine-ethanol metabolite cocaethylene, oxycodone, and buprenorphine and metabolite norbuprenorphine all detected in postmortem blood,” and (b) “[b]ody temperature of 103.9 degrees Fahrenheit was measured by emergency medical services.” Dr. Ho reported toxicology test results (performed on Mr. Garcia’s blood) of caffeine (presumptive positive), naloxone (presumptive positive), benzoylecgonine (3600 ng/mL), cocaine (990 ng/mL), cocaethylene (76 ng/mL), oxycodone (180 ng/mL), buprenorphine (1.1 ng/mL), and norbuprenorphine (1.3 ng/mL).

<sup>8</sup> Dr. Ho found: “Video evidence that he was placed in handcuffs and restrained in prone and side-lying positions prior to his death, during which he appeared to struggle against the restraints.”

<sup>9</sup> Dr. Ho further stated: “This determination is not a ruling on the appropriateness of the officers’ actions, but acknowledges that the decedent became unresponsive during their physical interaction with him.”

<sup>10</sup> Officers Collins and Butler have a constitutional right to remain silent and are presumed innocent of wrongdoing.

<sup>11</sup> Notably, at the scene near Mr. Garcia’s left foot, investigators located a small plastic baggy containing a white powder which was later forensically examined and determined to be 374 milligrams of cocaine.

## FINDINGS AND CONCLUSIONS

Under Utah law, an “officer-involved critical incident” includes the following:

- (i) an officer’s use of deadly force;<sup>12</sup>
- (ii) an officer’s use of a dangerous weapon<sup>13</sup> against an individual who causes injury to any individual;
- (iii) death or serious bodily injury to any individual, other than the officer, resulting from an officer’s:
  - (A) use of a motor vehicle while the officer is on duty; or
  - (B) use of a government vehicle while the officer is off duty;
- (iv) the death of an individual who is in custody, but excluding a death that is the result of disease, natural causes, or conditions that have been medically diagnosed prior to the individual’s death; or
- (v) the death of or serious bodily injury to an individual not in custody, other than an officer, **resulting from** an officer’s attempt to prevent an individual’s escape from custody, to make an arrest, or otherwise to gain physical control of an individual.

Utah Code § 76-2-408(1)(f) (emphasis and footnotes added).

In this case, Mr. Garcia was not “in custody” within the definition provided by statute.<sup>14</sup> However, Mr. Garcia’s medical crisis intensified, and he ultimately lost consciousness, after the officers began placing handcuffs on him. Even so, based upon available evidence, we do not believe that the facts of this case fall within the definition of an “officer-involved critical incident.”

As described above, the medical examiner, Dr. Ho, determined that Mr. Garcia died as a result of mixed drug toxicity. In support of her finding, Dr. Ho specifically found that: (a) “[c]ocaine and metabolite benzoylecgonine, cocaine-ethanol metabolite cocaethylene, oxycodone, and buprenorphine and metabolite norbuprenorphine [were] all detected in postmortem blood,” and (b) Mr. Garcia’s body temperature was measured at 103.9 degrees Fahrenheit by emergency medical services.

While Mr. Garcia’s death occurred after he was handcuffed, the primary cause of his death was mixed drug toxicity. Based upon the facts and evidence before us, we do not believe it likely that his death resulted from the officers’ attempts to gain physical control of him. There is nothing remarkable from the video footage to even infer that the actions of the officers were anything other than reasonable efforts to stabilize the scene so that emergency medical

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<sup>12</sup> “Deadly force” is defined as “a force that creates or is likely to create, or that the individual using the force intends to create, a substantial likelihood of death or serious bodily injury to an individual.” Utah Code § 76-2-408(1)(b).

<sup>13</sup> “Dangerous weapon” is defined as “a firearm or an object that in the manner of its use or intended use is capable of causing death or serious bodily injury to an individual.” Utah Code § 76-2-408(1)(b).

<sup>14</sup> “In custody” is defined as “in the legal custody of a state prison, county jail, or other correctional facility, including custody. . .” Utah Code § 76-2-408(1)(c).

responders could safely enter and provide medical aid to Mr. Garcia. As such, we believe the death of Mr. Garcia falls outside the condition set forth in subsection (v) of Utah Code Section 76-2-408(1)(f), in that the officers' attempt to gain physical of Mr. Garcia was not the cause of his death and that therefore, Mr. Garcia's death does not qualify as an "officer-involved critical incident."

Furthermore, we are not aware of any facts which would support a finding that the officers used any unlawful force during their interactions with Mr. Garcia. Rather, we believe the facts in this case are consistent with lawful efforts to stabilize the scene for emergency medical responders and to provide emergency medical aid, and further believe that the officers responded reasonably based on the information known to them at the time and as the situation evolved.

Even though we ultimately determined that the matter did not fall within the statutory definition of an officer-involved critical incident, we commend WJPD for invoking the protocol and requesting a protocol investigation of the matter. In doing so, WJPD honors the protocol's intent and purpose of providing an independent, transparent investigation and review process. We also commend UPD and all the law enforcement agencies who supplied personnel and resources to the protocol investigation of this matter.

As outlined in more detail above, we conclude the facts of this case do not fall within the statutory definition of an "officer-involved critical incident." *See* Utah Code § 76-2-408(1)(f). Further, we believe that to the extent non-deadly force was used, such force appears to be a reasonable attempt to gain physical control of Mr. Garcia. Accordingly, we decline to file a criminal charge in this matter.

Very Truly Yours,



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Sim Gill,  
Salt Lake County District Attorney