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**November 5, 2009**

William Lansdowne, Chief
San Diego Police Department
1401 Broadway
San Diego, Ca. 92101

**Re: In-Custody death of Mr. Terry Sayachak; San Diego Police Case #09-011544; DA Special Operations Case #09-042CD; Deputy District Attorney assigned: Damon Mosler.**

Dear Chief Lansdowne:

We've reviewed the reports and materials compiled by your department's Homicide Division concerning the in-custody death of Mr. Terry Sayachak. Mr. Sayachak was arrested on March 2, 2009. He was transported to UCSD Medical Center, where he died the next day on March 3, 2009. This case was presented to us on July 31, 2009.

***Persons Involved***
Mr. Terry Sayachak was 28 years old and lived in San Diego. He was 5'7" tall and weighed 145 pounds.

San Diego Police Officers Victor Rodriguez #5742, Justin Tennebaum #6320, John Erpelding #6334, Geraldine Taitague #6151 and Mark Lucchesi #5958 were all involved in Mr. Sayachak's arrest. All of the officers were assigned to patrol division.

***Incident***
At about 6:18 p.m., Terry Sayachak's father, Carter Sayachak called police to report that his son had threatened to kill him and his son's girlfriend. His son, Terry, pointed a gun at his father while he threatened him. While SDPD officers were speaking with Carter Sayachak, Terry Sayachak drove by the residence. Terry had his girlfriend, Phet Omdara, in the vehicle when he drove by. The officers informed dispatch of the description of Suspect Sayachak and it was broadcasted for other officers to be on the lookout.

At 7:19 p.m., SDPD Sergeant David Mitchell heard someone yell for help in the area of Logan and 45th St., in the City of San Diego. Sgt. Mitchell observed a male subject yelling and running from a white Mitsubishi Galant. The subject, Sergio Garcia, told Sgt. Mitchell that his white Galant had just been carjacked and that the suspect bit him and stabbed him with a pencil. Sgt. Mitchell broadcasted the vehicle description and officers arrived in the area. Sgt. Mitchell discovered that Mr. Sayachak had crashed, a block away at 46th and Logan, the carjacked Galant into another car.

Sgt. Mitchell saw Mr. Sayachak fall out the driver's door to the ground outside of the white Galant. Officer Rodriguez attempted to handcuff Mr. Sayachak, but Mr. Sayachak was bleeding from his right hand. Officers Tennebaum and Erpelding arrived and assisted with handcuffing Mr. Sayachak. After handcuffing him, Mr. Sayachak started to scream for help and began to struggle. Mr. Sayachak attempted to kick Officer Rodriguez, who was standing behind him. Mr. Sayachak was face down on the pavement. Officers Taitague and Lucchesi arrived to assist. As officers were holding Mr. Sayachak down on the ground, Officers Taitague and Lucchesi placed Mr. Sayachak in maximum restraints, tying his feet to his hands, behind his back.

San Diego Fire Department Paramedics were on scene and waited for the police officers to control Mr. Sayachak. They examined Mr. Sayachak and discovered Mr. Sayachak was not breathing and did not have a pulse. They started Cardio Pulmonary Resuscitation and Mr. Sayachak was transported to the hospital. Mr. Sayachak died from his injuries the next day on March 3, 2009.

Officers discovered Mr. Sayachak's Toyota Camry in the 500 block of Elizabeth St., San Diego. Inside the vehicle, officers discovered Mr. Sayachak's girlfriend, Phet Omdara, in the passenger seat. Ms. Omdara had been murdered, a single gunshot to the head.

***Officer's Statements***

All Officers involved provided voluntary and recorded statements. Officer Rodriguez said when he arrived at the scene, he attempted to handcuff Mr. Sayachak, but noticed Mr. Sayachak was bleeding from the right hand. Officer Rodriguez did not have gloves on and therefore, did not try to handcuff Mr. Sayachak's injured hand. Other officers arrived and Mr. Sayachak was handcuffed. Mr. Sayachak did not struggle at the beginning, but suddenly started to scream for help and began to kick at Officer Rodriguez. Officer Rodriguez struck Mr. Sayachak in the right leg with his flashlight to stop him from kicking and struggling. Officer Rodriguez placed his knee on Mr. Sayachak's buttock to prevent him from raising himself from the ground. After Mr. Sayachak complied and began to calm, paramedics assessed his injuries. That is when Officer Rodriguez heard that Mr. Sayachak was not breathing.

Officer Tennebaum said he and his partner, Officer Erpelding, were the officers who took the report from Mr. Sayachak's father earlier that evening. Officer Tennebaum heard over the police radio a call for assistance regarding Mr. Sayachak and responded to the area. Upon their arrival, Officer Tennebaum put on gloves and assisted Officer Rodriguez with handcuffing Mr. Sayachak. Mr. Sayachak was calm at the beginning, but then began to yell and attempted to get up. He and other officers jumped on Mr. Sayachak to stop him from getting up. Officer Tennebaum controlled Mr. Sayachak's head while Officer Erpelding controlled his arms and Officer Taitague attempted to place maximum restraints on Mr. Sayachak's legs. After Mr. Sayachak calmed down, paramedics evaluated Mr. Sayachak.

Officer Erpelding said that he was with Officer Tennebaum when they arrived at the accident scene. When they arrived, Officer Rodriguez was handcuffing Mr. Sayachak. Officer Tennebaum said everything was alright and suddenly Mr. Sayachak started yelling for help and started kicking at Officer Rodriguez, who was standing behind him. They jumped on Mr. Sayachak to control him and he recalled holding Mr. Sayachak's arms as Officer Tennebaum

held the head. Officer Rodriguez and Officer Taitague attempted to place maximum restraints on Mr. Sayachak's legs. Officer Erpelding said that his glove ripped during the struggle and he saw blood on his hands. He got off of Mr. Sayachak and other officers took over. Paramedics arrived at that time and assessed Mr. Sayachak.

Officer Taitague said that when she arrived on scene, there were several officers already present and Mr. Sayachak was on the ground. Mr. Sayachak started to yell and began kicking at Officer Rodriguez, who was standing behind him. Officer Taitague used a cord cuff to restrain Mr. Sayachak. After wrapping his feet with the cord cuff, the paramedics arrived and tended to Mr. Sayachak. The paramedics said Mr. Sayachak was not breathing and Officer Taitague removed the cord cuff.

Officer Lucchesi said that when he arrived, Mr. Sayachak began kicking and moving around. Officer Lucchesi retrieved the cord cuff from his vehicle and gave it to Officer Taitague. Officer Lucchesi placed his foot on Mr. Sayachak's ankle to prevent him from kicking. He watched as officer Taitague placed the cord cuff on Mr. Sayachak's ankles and tied them to his handcuffs. As Officer Taitague was doing so, the paramedics arrived and evaluated Mr. Sayachak.

***Statements by San Diego Fire Personnel***

Paramedic Hinch said that when he arrived, the police were subduing Mr. Sayachak. Paramedic Hinch saw the damage to the vehicle in which Mr. Sayachak was driving and he felt Mr. Sayachak should be transported to the hospital for evaluation. Paramedic Hinch said that he waited about ten minutes as the officers subdued Mr. Sayachak. As he approached Mr. Sayachak, he placed a neck collar on him. He also noticed that Mr. Sayachak was not breathing. Paramedic Hinch felt that Mr. Sayachak died a couple of minutes prior to him evaluating him.

Paramedic Wilson said that when he arrived, five officers were trying to control Mr. Sayachak as Mr. Sayachak resisted the police. He recalled hearing from the police officers as they told Mr. Sayachak to stop and calm down. After Mr. Sayachak calmed down, fire personnel approached and observed Mr. Sayachak was not breathing. Mr. Sayachak was face down and his face was purple.

***Autopsy***

On March 5, 2009, San Diego County Deputy Medical Examiner Craig Nelson conducted an autopsy on Mr. Sayachak. Dr. Nelson determined Mr. Sayachak's death was a result of complications of resuscitated arrest during prone law enforcement restraint and acute methamphetamine intoxication following a motor vehicle accident with minor blunt force trauma. Left ventricular hypertrophy and coronary artery atherosclerosis are listed as contributing conditions. Mr. Sayachak had pre-existing heart disease and methamphetamine intoxication that could have resulted in sudden cardiac arrhythmia and death. Dr. Lucas ruled the manner of death was Homicide.

Dr. Lucas noted, ***"Although there is no evidence that any type of restraint (whether manual or by device) may have caused or contributed to restriction of breathing or that his other injuries directly contributed to his death, his cardiac arrest nevertheless is temporally related to the restraint."***

Testing of Mr. Sayachak's blood revealed the presence of Methamphetamine.

***Conclusions***

During this incident, Officers combed the area for a man that had threatened others with a firearm. Sgt. Mitchell saw the victim of a carjacking and kidnapping run from the scene and the suspect flee in the vehicle, ultimately being involved in a traffic collision in the stolen vehicle a block away. Unbeknownst to the officers, the suspect, Mr. Sayachak just murdered his girlfriend and car-jacked the white Galant to flee from the scene. After the collision, responding officers attempted to handcuff and control Mr. Sayachak, who began to yell and struggle with the police. As officers were on top of Mr. Sayachak and attempting to place him in maximum restraints, Mr. Sayachak stopped breathing and later died at the hospital.

A number of circumstances came together during this incident that contributed to Mr. Sayachak's death – his excited mental and emotional state, the presence of methamphetamine in his system, injuries from crashing the stolen car, his violent struggle with the officers, and the fact Mr. Sayachak had to be forcibly restrained. Mr. Sayachak also had a previous heart condition that may have played a role in his death.

Based upon our review of the facts and circumstances surrounding Mr. Sayachak's death, we conclude the law enforcement personnel involved in his restraint acted reasonably under the circumstances and bear no criminal liability for their actions.

This review was conducted pursuant to the joint protocol between this office and all San Diego County law enforcement agencies calling upon the District Attorney to conduct an independent assessment of the circumstances surrounding an in-custody death. The review does not examine such issues as compliance with the policies and procedures of the respective law enforcement agency, ways to improve training, or any issues related to civil liability. Accordingly, such a review should not be interpreted as expressing an opinion on these matters.

A copy of this letter, along with the materials submitted for our review, will be retained in our files.

**Sincerely,**

**BONNIE M. DUMANIS**
**District Attorney**
**County of San Diego**

**By:**

**DAMON MOSLER**
**Deputy District Attorney**
**Chief, Special Operations Division**

**DM:vf**
**cc: Jim Collins**