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District Attorney

Report of the Law Enforcement Involved Fatal Incident Investigation of
BRIAN LOVE PENCE JR. on January 3rd, 2023

EXECUTIVE SUMMARY

On December 31st, 2022, at approximately 3:20 pm, 31-year-old BRIAN LOVE PENCE JR. [hereinafter referred to as PENCE] was arrested by the Antioch Police Department for an alleged domestic violence incident.

Following his arrest, PENCE was transported to the Martinez Detention Facility. During the medical screening process, PENCE tested positive for COVID-19. Per protocol, PENCE was quarantined in "D" module at the Martinez Detention facility where he was placed in a cell that was not occupied by any other inmates.

On January 3rd, 2023, at approximately 11:30 am, while still in D module, PENCE was provided a lunch meal, which he accepted. Contra Costa County Sheriff Deputy Cooper stated that at approximately 12:30 pm he conducted a cell check of PENCE and noticed no unusual activity.

At approximately 1:09 pm, Contra Costa County Sheriff Deputy Dorr conducted a subsequent cell check and saw PENCE laying underneath his bed. Deputy Dorr notified additional jail staff, who responded to PENCE's cell and saw that PENCE was nonresponsive. Medical responders arrived and attempted life saving measures. Despite emergency medical care, PENCE was declared deceased at 1:41 pm.

From the time PENCE received his lunch at approximately 11:30 am to the time he was discovered underneath his bed, no Sheriff Deputy, inmate, or any other individual entered PENCE's cell.

On January 4th, 2023, an autopsy was conducted by forensic pathologist Dr. Arnold Josselson. After an extensive evaluation, Dr. Josselson listed PENCE's cause of death as, "fatty change of liver," and further listed other significant conditions as, "COVID 19 infection."

On June 2nd, 2023, Arnold Josselson testified at a coroner's inquest. At the coroner's inquest Dr. Josselson stated that based on his examination he noted a fatty change in the liver that can cause sudden death. Dr. Josselson testified that this condition can occur for multiple reasons, and that individuals can suddenly die from this condition due either to cardiac arrhythmia or low magnesium, which creates a metabolic issue. Dr. Josselson testified that tragically, there is no way to predict this type of sudden death and no known way to prevent it from happening.

The Contra Costa County Law Enforcement Involved Fatal Incident Protocol (LEIFI) was activated following PENCE's death. All police officers involved in the incident were sequestered and the LEIFI investigation was initiated by the Contra Costa District Attorney's Office (CCDAO). This report is the final step in the CCDAO investigation.

As part of the Protocol, the Contra Costa County District Attorney's Office and the involved agencies conduct independent investigations. The purpose of the CCCDAO criminal investigation is to determine whether any of the involved individuals, officers, or civilians, committed a crime.

The LEIFI investigation determined that PENCE died of natural causes while in the Martinez Detention Facility. No force was used by any individual before, during, or after the incident. As such, after a thorough review of all of the evidence, the CCCDAO concludes that no criminal charges are warranted and no further action will be taken in this case.