



## John D. Wentworth, Clackamas County District Attorney

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03/15/2023

To: Canby Police Department

Attn: Case Management

Re: Suspect: Investigation Death  
DA No.: 005344801  
Your No.: 22-028216 - Canby Police Department  
22-028215 - Clackamas County Sheriff's Office  
22-028218 - Oregon City Police Department  
22-987654 - Clackamas County Sheriff's Office

This matter was submitted to the Clackamas County District Attorney's Office to assess whether there is criminal liability for the use of non-lethal force administered by Clackamas County Corrections Deputies upon Matthew McCarter that preceded his death due to methamphetamine induced cardiac arrest while in the Clackamas County Jail. It is our conclusion that there is no evidence to support criminal charges against any of the deputies involved.

What follows is a summary of the facts developed during this investigation, which was drawn from witness interviews, interviews from the Corrections Deputies who engaged in the use of non-lethal force, Clackamas County Jail medical records, Mr. McCarter's autopsy and toxicology reports, training records, videos of the incident and photographs. This summary will not address every fact developed during the investigation and the reader is directed to the investigative reports and video for additional detail.

### **FACTUAL SUMMARY**

On 12/16/22 at 7:25 PM West Linn Police Officers responded to a report that Matthew McCarter (age 48) had been making repeated attempts at unwanted contact with his ex-girlfriend. Officers met with Mr. McCarter's ex-girlfriend along with her roommates. The ex-girlfriend alleged Mr. McCarter had been consistently physically abusive during their relationship and they had broken up several weeks earlier. Since then, Mr. McCarter had made multiple attempts at contacting her despite her and her roommates' repeatedly telling him not to make contact. They alleged he had driven by their home almost every day over the previous two weeks honking his horn and yelling.

On this particular evening, Mr. McCarter sent a text to one of his ex-girlfriend's roommates that had a picture of a gun and bullets. Accompanying this photo was the message "I guess you just don't understand how much she means to me. Now it's time to show you." Understandably, the ex-girlfriend took this threat very seriously and called 911. The responding officer was able to view the text and was provided a screenshot.



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The responding officer also confirmed with his ex-girlfriend's roommates that McCarter had been told numerous times to stay away from their residence and they preserved recorded messages telling him not to contact them. The ex-girlfriend stated she had blocked several of Mr. McCarter's numbers and Facebook accounts yet he would contact her family or have his son and niece make contact on his behalf. The investigating officer reviewed Mr. McCarter's criminal history, which confirmed that he had multiple arrests for domestic violence.

Mr. McCarter was subsequently located by law enforcement nearby and questioned. He admitted going to his ex-girlfriend's home but said he had only done so twice. He admitted to honking in an attempt to get her attention but said it was only to get his dogs. According to investigating officers, Mr. McCarter made a number of contradictory statements concerning whether he knew his ex-girlfriend did not want to be contacted. Mr. McCarter was taken into custody for Stalking and transported to the Clackamas County jail. There is no indication that there was a use of force against Mr. McCarter when taking him into custody.

Mr. McCarter arrived at the Clackamas County Jail at approximately 9:05 PM began the booking process. He can be seen on video entering the intake area of the jail accompanied by two West Linn Officers. There is nothing remarkable or unusual that can be observed on the video at the time of entry.

Deputy Anaya was the first to take control of McCarter during the booking process. During the customary search that takes place at booking, Deputy Anaya noticed abscesses on Mr. McCarter's legs. It would later be determined that these were the result of Mr. McCarter's intravenous methamphetamine addiction. Deputy Anaya alerted medical staff about these wounds so they could be evaluated. During the medical screening, Mr. McCarter's blood pressure was 205/149, his temperature was 97.1 and pulse was 113. Mr. McCarter was cleared for entry into the jail and placed in the main holding tank.

Video shows Mr. McCarter was placed in the holding tank with several other inmates, many of them were sleeping or laying down. Mr. McCarter attempted to use the phone without success. He eventually got the attention of corrections deputies and complained that his chest hurt. He was escorted by Deputy Le to the medical office where Nurse Alyassiri was on duty. Alyassiri determined she would do an ECG and get a urine sample to better assess his condition. The ECG would have to be performed in another part of the jail by way of a deputy escort, so Nurse Alyassiri spoke with McCarter while waiting for the escort. Mr. McCarter discussed why he was arrested. He was initially agitated when she made contact with McCarter, but he seemed to calm down as they spoke. Shortly after, a deputy escorted Mr. McCarter to provide a urine sample and then took him to the location where Alyassiri intended to administer the ECG.



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The urine screen detected the presence of methamphetamine and MDMA. Alyassiri attempted but was not able to get an accurate or complete ECG reading on Mr. McCarter. She said she attempted to complete the procedure for 20 minutes, but Mr. McCarter could not remain still or follow directions and would hold his breath. Mr. McCarter asked Alyassiri a number of questions about his charges and custody status but she did not know the answer. Deputy Le was present and informed Mr. McCarter that unless he posted bail, he would very likely remain through the weekend until he could be arraigned on Monday. This agitated Mr. McCarter and he became upset. Mr. McCarter continued to complain of chest pain so the Deputy put him in a wheelchair and took him toward the booking area. It was Alyassiri's intent to make contact with the on-call physician to discuss Mr. McCarter's situation and how best to proceed. As he was taken from the medical office, he was becoming more verbally aggressive and agitated.

Deputy Le wheelchaired Mr. McCarter back to the booking area. Mr. McCarter was still agitated and appeared not to be happy about the medical treatment. Deputy Anaya assisted in putting him back in main tank. Once inside, Mr. McCarter laid on the ground and started yelling through the bottom of the door. He was demanding he get a piece of paper with phone numbers that had been taken from him earlier. Corrections Sgt Williams heard the commotion and made contact with Mr. McCarter, who began to call him names. Sgt. Williams said he would look for paper with the phone numbers, which was believed to have been left in the medical office. Sgt. Williams found the paper in the medical office and returned it to Mr. McCarter, who continued to yell and call Sgt. Williams names.

Mr. McCarter's behavior started to agitate other inmates in the holding tank. This type of situation poses a unique challenge to those in charge of jail security. Fights can break out or this can cause other inmates to become agitated with Corrections Deputies if the situation isn't controlled. Additionally, the agitate inmate can become a target for violence from other inmates who want to control the situation themselves. In this case, one inmate started banging on the holding tank door as a direct result of Mr. McCarter's behavior and had to be moved to another the cell.

The decision was then made to remove Mr. McCarter from the holding tank and put him in another cell. Deputies Le, Anaya, Nicolas and Sgt Williams were tasked with the escort. When they opened the door, Mr. McCarter was seated on the floor calling the deputies "motherfuckers" and said he did not need their help to walk. He was ordered to walk but he demanded he not be touched and continued to be verbally aggressive.

In reviewing videos from C-120 (Bk Holding E) and C-122 (Bk Holding W) and reviewing statements from Corrections Deputies Le, Anaya, Nicolas and Williams, Mr. McCarter can be seen being escorted down the hall at approximately 11:00 PM. Mr. McCarter kept turning toward the deputies which poses a safety risk due to the concern that he is trying to square up to fight. Deputies Anaya and Nicolas placed him in an escort hold to control his movement as Deputy Le



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walked in close proximity behind Mr. McCarter. They were giving him verbal opportunities to comply but he would turn or attempt to pull away from the holds.

Mr. McCarter then dropped his weight while in the escort hold and deputies lifted him up. Mr. McCarter then pushed out his feet in an effort to resist and was escalating in aggression. Mr. McCarter's active resistance continued down the hall, and the deputies made the decision to put him on the ground. Mr. McCarter went down on a mattress that was in the hallway as deputies attempted to handcuff him.

Mr. McCarter is seen actively resisting the three deputies as Sgt. Williams observes. He was repeatedly ordered to put his hands behind his back and Deputy Le delivered several focused blows to Mr. McCarter's back, but his resistance was strong enough that three trained deputies were having little success in getting him handcuffed. The focused blow did not produce anything approaching a significant injury and this was an acceptable use of force for law enforcement to employ in that situation. According to Deputy Anaya, it appeared Mr. McCarter was trying to roll on his back to fight the deputies and seemed "abnormally strong."

As the Corrections Deputies struggled to get Mr. McCarter under control, Sgt. Williams warned Mr. McCarter multiple times he would be tased if he did not stop resisting, but he continued to resist. It was at this time that Deputy Kozian arrived to assist deputies. After approximately 40 seconds of active resistance, Sgt. Williams tased Mr. McCarter. Mr. McCarter continued to resist so he was tased again. After the second use of the taser, the deputies were able to gain control of Mr. McCarter and get him handcuffed. At approximately one minute 40 seconds into the encounter, Mr. McCarter told deputies he was having difficulty breathing, so they rolled him on his side.

As Mr. McCarter had demonstrated he could be physically combative, Deputies determined Mr. McCarter would need to be placed in a restraint chair for further movement around the jail. As deputies attempted to secure him in the chair, he began to resist again. Mr. McCarter is consistently bucking his hips and flailing his legs. Mr. McCarter started spitting at Deputy Kozian as they attempted to gain control of him, and it appears you can see her reaction to this at 33:22 in the video and others could hear her telling him to stop spitting.

Mr. McCarter actively resisted the deputies' efforts to secure him in the chair for approximately four minutes. The deputies did not strike Mr. McCarter or engage in any action other than trying to get him secured in the face of his resistance. At the 37:50 mark of the video, Deputies noticed Mr. McCarter's breathing was labored and he was becoming unresponsive. Sgt. Williams immediately called for medical staff who were nearby. He applied a sternum rub and did not get a reaction. Mr. McCarter was then given oxygen.

Medical staff continued to assess his condition but it was quickly deteriorating. At 43:52 a deputy runs to get a defibrillator and deputies remove his restraints. Medical staff was nearby and



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engaged the use of a defibrillator while he was in the chair but that was not effective. Mr. McCarter was removed from the chair, given CPR and an ambulance was called. Lifesaving measures were not successful and he was pronounced dead at 11:54 PM. The amount of time that elapsed between Mr. McCarter entering the corridor and being removed from the restraint chair was approximately 16 minutes.

An autopsy was conducted the next day by Dr. Stauffenberg of the Oregon Medical Examiner's office. The cause of death was determined to be "Toxic effects of methamphetamine" leading to cardiac arrest. Dr. Stauffenberg went on to state "It is my opinion that Matthew McCarter, a 48-year-old white male died as a result of using methamphetamine. This stimulant drug exerts its toxic effects on the heart, increasing heart rate and blood pressure and increasing the likelihood of a fatal heart rhythm. In addition, the effects of the drug can aggravate underlying cardiovascular disease. For this reason, hypertension (high blood pressure) and atherosclerosis (hardening of the arteries) are listed as contributing conditions. Injury from restraint is minimal, however, restraint may also raise heart rate and blood pressure and contribute to death. Since this restraint contributed in part to the death, the manner of death is classified as homicide."

Furthermore, the only injuries observed on Mr. McCarter were as follows:

1. A small abrasion is on the posterior right hand.
2. A superficial vertically oriented cut is on the posterior left hand.
3. Two patterned markings are on the lumbar back, one in the midline, and the other on the right posterolateral surface. Each consists of four red abrasions, each measuring 1/4" or less arranged like the four corners of a square.
4. A 2 x 2" V-shaped abrasion is on the posterior left shoulder with the apex pointing leftward.
5. A 5 x 4" cluster of abrasions is on the posterior upper right shoulder.
6. Two faint abrasions are on the vertex of the scalp.
7. Faint horizontal abrasions are on the lateral left wrist and anterior right forearm consistent with handcuff placement.

None of these external injuries were indicative of an excessive use of force, and the internal examination did not reveal any fractures or defects from the use of force. Mr. McCarter's toxicology results revealed that he had 3.7 mg/L of methamphetamine in his blood, an amount which accepted medical literature shows is toxic and can have life threatening effects.

### **CONCLUSION**

There is no evidence to support criminal charges relating to any level of homicide or assault against any of the involved deputies as it relates to the use of force as a precipitating factor to Mr. McCarter's methamphetamine induced cardiac arrest. Deputies responded to Mr. McCarter's complaints of chest pain in a timely manner and did nothing to inhibit his access to medical care. While Mr. McCarter continued to express that he was having chest pain, he was





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also behaving aggressively with deputies to the point where they had to remove him from the holding tank and put him in a separate cell. Mr. McCarter then became physically aggressive with deputies who, consistent with their training, acted to impede that threat with both verbal commands and placing him in an escort hold. The use of force only increased in proportion with Mr. McCarter's escalating conduct. The scope of the deputies' use of force, as well Sgt. Williams decision to use the taser, was consistent with their training and not an unreasonable response to the threat Mr. McCarter was posing not only to the individual deputies but the security of the facility. There is nothing in the video to suggest the deputies were behaving unreasonably aggressive or out of control in subduing Mr. McCarter.

As a final note, the autopsy report classifies the manner of death as "homicide." That is strictly a medical conclusion, not a legal conclusion, and does not imply a criminal mental state. The use of "homicide" in this context denotes that the use of restraint raised his heart rate and contributed to his death. To put a finer point on it, it appears Mr. McCarter's *repeated and active resistance* to the lawful use of restraint was the greatest factor in raising his heart rate.

Thank you.

A handwritten signature in blue ink, appearing to read "Chris W. Owen".

By

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Chief Deputy District Attorney