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Solicitor Wilson's Statement Regarding the Death Certification of Jamal Sutherland by the Coroner

Charleston, S.C.-- In criminal prosecutions, the Department of Health and Environmental Control's death certification is not evidence and is typically not part of our case. In the case of Jamal Sutherland, as of early this morning, I had neither the original death certification nor the amended. This is not unusual.

When I first saw the video footage of Jamal Sutherland's death, I fully expected Dr. J.C. Upshaw Downs, the Coroner's pathologist, to rule it a "homicide." While I was surprised that Dr. Downs did not deem the manner of death a "homicide," neither his ruling as to the manner of death, nor the Coroner's, is of great value in a criminal investigation or prosecution. The word "homicide" is not equal to or synonymous with any crime in South Carolina. Many prosecutions move forward when a manner of death is "undetermined," and sometimes cases deemed a "homicide" are not a crime. In fact, the National Association of Medical Examiners notes that the term "homicide" with regard to a death certificate is a "neutral" term that does not indicate or imply criminal intent, a determination within the authority of legal processes. (For reference, see the National Association of Medical Examiners, *A Guide for Manner of Death Classification* (1st ed. 2002). I have discussed this in detail with the Sutherlands.

Of greater import in my investigation and consideration of prosecution is Dr. Downs' finding that the cause of death was the result of Sutherland's "excited state with adverse pharmacotherapeutic effect during subdual process." He further stated that his review of the extrication process did not reveal any "unusual or excessive interactions or areas of direct concern."

As I previously stated, I have sought a second opinion as to the autopsy results. Dr. Kim Collins, a renowned and board certified forensic pathologist, is performing the review. While her work is incomplete, I expect a finding of homicide. She is still investigating any "pharmacotherapeutic effect" and its role in Sutherland's death. It is our understanding that the coroner has requested additional forensic testing which may bear on this issue for both Dr. Downs and Dr. Collins. Determining the cause, rather than medical manner, of death is critical in prosecuting someone for the death of another.

In order for the State to hold someone criminally responsible for another's death, the State must not only prove the *proximate cause* of death but also that the accused had the requisite criminal intent while acting unlawfully. In order to determine this, it is imperative that a well-qualified expert analyze the relevant video, policies, procedures and training of those involved. I have sought the opinion of a use of force expert who specializes in force within detention centers. I expect a thorough analysis and expert opinion regarding the use of force against Jamal Sutherland in the near future.

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