

**In-Custody Death of Daniel Torres-Constantine**

**Monrovia Police Department**

**Officer Juan Huerta #P44  
Officer David Andrew #P39**

**J.S.I.D. File #18-0430**



**JACKIE LACEY**

**District Attorney**

**Justice System Integrity Division**

**January 11, 2019**

## MEMORANDUM

TO: CHIEF ALAN SANVICTORES  
Monrovia Police Department  
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CAPTAIN CHRISTOPHER BERGNER  
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FROM: JUSTICE SYSTEM INTEGRITY DIVISION  
Los Angeles County District Attorney's Office

SUBJECT: In-Custody Death of Daniel Torres-Constantine  
J.S.I.D. File #18-0430  
L.A.S.D. File #017-00121-3199-499

DATE: January 11, 2019

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of allegations that the detention of Daniel Torres-Constantine by members of the Monrovia Police Department (MPD) was potentially a contributing factor in Torres-Constantine's death. We have concluded that their actions were reasonable. We have further concluded that their actions were not a proximate cause of Torres-Constantine's death and they are thus not criminally liable for Torres-Constantine's death. For the reasons set forth below, this office declines to initiate criminal proceedings.

The following analysis is based on reports, audio recordings, photographs, medical records and the autopsy report, submitted to this office by the Los Angeles County Sheriff's Department (LASD). No compelled statements were considered in this analysis.

### **FACTUAL ANALYSIS**

On November 9, 2017, at approximately 10:07 p.m., MPD Officers Juan Huerta, David Andrew and Sergeant Chad Harvey were dispatched to the Oak Park Motel, located at 925 E. Huntington Drive in the City of Monrovia regarding a noise complaint. Upon their arrival, all three spoke to the reporting party, who managed the establishment. They were advised that multiple guests at the hotel had complained of noise coming from room 128, and had indicated that the occupant sounded intoxicated. The reporting party further

advised them that her husband went to the room and knocked on the door, but was unable to make contact with the occupant. Huerta, Andrew and Harvey were provided the name of the registered renter, and proceeded to the room. Upon arrival, all three could immediately hear a male yelling and talking to himself incoherently inside the room. They made several attempts to get the occupant to open the door, but were unsuccessful. Due to the occupant's erratic behavior, and to conduct a welfare check, Huerta obtained a key from the manager and opened the door to room 128.

Upon opening the door, Huerta and Andrew immediately recognized the occupant as Daniel Torres-Constantine, due to previous contacts they had with him.<sup>1</sup> Torres-Constantine was seated on the bed, wearing only a bra.<sup>2</sup> Both Andrew and Huerta could smell marijuana in the room and observed one "King Cobra" malt liquor can on top of a nearby dresser. Andrew further observed that there was blood on a pillow case near where Torres-Constantine was seated.

Due to previous incidents where Torres-Constantine had been aggressive with officers, Andrew requested additional units respond to the location. Huerta, Andrew and Harvey waited outside of the room for additional officers to arrive, while maintaining visual contact of Torres-Constantine. Andrew also requested a wants/warrants check on Torres-Constantine, which revealed that he had a bench warrant outstanding for his arrest on a narcotics case.

Once additional units arrived, they were directed to wait in the parking area. Huerta, Andrew and Harvey then proceeded to enter the room to contact Torres-Constantine. Huerta and Andrew attempted to persuade Torres-Constantine to put on some clothing and exit the room. Torres-Constantine was unresponsive, continually yelling to himself in a manner which caused Huerta to believe he had multiple personalities. As the officers were speaking to him, Torres-Constantine inserted one of his fingers into his own anus, and then removed his finger and attempted to close the door on the officers. Andrew placed his baton in the door jamb to block the door from closing. Torres-Constantine walked back to the bed and sat down. Huerta and Andrew then observed a dildo lying on a dresser, covered with a crystalline substance that appeared to be methamphetamine.<sup>3</sup>

Due to the fact that there was a warrant out for Torres-Constantine's arrest, coupled with his irrational behavior and inability to communicate with officers and the narcotics and blood observed in the room, Andrew and Huerta determined that Torres-Constantine needed to be detained. They entered the room and detained him. Torres-Constantine appeared calm, but tensed his arms as Huerta and Andrew each grabbed one arm and placed him in handcuffs. Torres-Constantine was sweating and talking to himself, but did not resist.<sup>4</sup> Officers were unable to locate any injuries which would explain the blood

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<sup>1</sup> The room was not registered to Torres-Constantine.

<sup>2</sup> The bra was filled with U.S. currency.

<sup>3</sup> Officers later learned from Special Enforcement Team members that Torres-Constantine had been ingesting methamphetamine in this manner for some time, by direct insertion into the lining of his colon.

<sup>4</sup> Multiple law-enforcement witnesses observed the arrest and all indicated that Torres-Constantine did not resist in any way.

they had observed on the pillowcase. Huerta determined that Torres-Constantine was unable to care for himself, and proceeded to detain him pursuant to Welfare and Institutions Code section 5150.<sup>5</sup> Torres-Constantine was covered with a sheet and placed in the rear seat of a police vehicle and seat-belted in by Huerta and Andrew at approximately 10:37 p.m.<sup>6</sup>

Huerta and Andrew, assisted by Harvey and Agent Michael Garcia, went back to the room to collect Torres-Constantine's belongings prior to transporting him to the hospital. Additional officers were posted outside of the room near the vehicle where Torres-Constantine was seated. While collecting Torres-Constantine's belongings, Andrew observed blood on the sheet and more blood on the floor in the bathroom in front of the shower.

After approximately five minutes, Huerta went out to the vehicle to check on Torres-Constantine.<sup>7</sup> Huerta observed that Torres-Constantine was slumped over to his right side and was unresponsive. Huerta opened the car door. Garcia observed that Torres-Constantine was not breathing and did not appear to have a pulse. Huerta and Garcia removed Torres-Constantine from the vehicle, placing him on the ground on his back. Paramedics were called, and officers performed CPR on Torres-Constantine until their arrival at approximately 10:49 p.m. Torres-Constantine was transported to the Arcadia Methodist Hospital Emergency Room via ambulance, where he was pronounced dead eight days later by Doctor Jerry Eu.

An autopsy was conducted on November 20, 2017, by Doctor Panchal, Deputy Medical Examiner with the Los Angeles County Department of the Coroner. The cause of death was determined to be anoxic encephalopathy due to the sequelae of amphetamine/methamphetamine intoxication.<sup>8</sup> The manner of death was determined to be accidental.<sup>9</sup> No injuries were noted which could be attributed to any use of force by MPD personnel. Toxicology testing of urine recovered from the hospital revealed that Torres-Constantine had amphetamines in his system.

## LEGAL ANALYSIS

“An officer may use reasonable force to make an arrest, prevent escape or overcome resistance, and need not desist in the face of resistance.” *Munoz v. City of Union City*

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<sup>5</sup> Paperwork was completed to hold Torres-Constantine in a medical or psychiatric facility pursuant to Welfare and Institutions Code section 5150. Torres-Constantine had been committed under this section several times previously by MPD due to erratic and dangerous behavior, where it was determined he was unable to care for himself or posed a risk to his own safety.

<sup>6</sup> Torres-Constantine was able to walk to the vehicle without assistance according to all law enforcement and civilian witnesses.

<sup>7</sup> Due to Torres-Constantine's previous contacts with MPD, Huerta became concerned when he realized he did not hear Torres-Constantine yelling or making noise, which was unusual for him.

<sup>8</sup> Put simply, Torres-Constantine died as a result of his brain tissue being deprived of oxygen which resulted in a global loss of brain function due to his current and chronic use of methamphetamine and/or amphetamines.

<sup>9</sup> The autopsy revealed that Torres-Constantine also suffered from other ailments. They do not appear to have contributed to his death, so they are not discussed in this memorandum.

(2004) 120 Cal.App.4<sup>th</sup> 1077, 1102. “Unlike private citizens, police officers act under color of law to protect the public interest. They are charged with acting affirmatively and using force as part of their duties, because the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it.” *Id.* (citations and internal quotations omitted).

“The question is whether a peace officer’s actions were objectively reasonable based on the facts and circumstances confronting the peace officer.” *Id.*, at 1102.

In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. *CALCRIM No. 505, 3470.*

An act causes death if the death is the direct, natural and probable consequence of the act and the death would not have happened without the act. *CALCRIM No. 582*

In the instant matter, the only force used by officers was the minimal touching required to handcuff and detain Torres-Constantine. Given the circumstances in which they found him, their detention was reasonable in order to facilitate transporting Torres-Constantine to a hospital for his own safety. Torres-Constantine’s death was not a result of the force used or the detention itself. As such, no criminal liability attaches to the actions of MPD personnel.

## **CONCLUSION**

The evidence examined in this investigation shows that Officers Andrew and Huerta used very minimal force to detain Torres-Constantine and this force was neither an actual cause nor a proximate cause of his death. We are closing our file and will take no further action in this matter.