

**In-Custody Death of Manuel Ornelas  
Long Beach Police Department**

**Officer Sean Bookout, #10016  
Officer Randy Lacsina, #10053  
Officer Harrison Moore, #10319  
Officer Steven Petersen, #5380  
Officer Sharon Van Duin, #5612**

**J.S.I.D. File #15-0467**



**JACKIE LACEY**

**District Attorney**

**Justice System Integrity Division**

**February 20, 2018**

**MEMORANDUM**

TO: CHIEF ROBERT G. LUNA  
Long Beach Police Department  
400 West Broadway  
Long Beach, California 90802

FROM: JUSTICE SYSTEM INTEGRITY DIVISION  
Los Angeles County District Attorney's Office

SUBJECT: In-Custody Death of Manuel Ornelas  
J.S.I.D. File #15-0467  
L.B.P.D. File #15-54578

DATE: February 20, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 5, 2015, in-custody death of Manuel Ornelas. It is the conclusion of this office that Long Beach Police Department (LBPB) Officers Sean Bookout, Randy Lacsina, Harrison Moore, Steven Petersen, and Sharon Van Duin used legally justified force in subduing Ornelas.

The District Attorney's Command Center was notified of this in-custody death on September 5, 2015, at approximately 1:20 p.m. The District Attorney Response Team responded and was given a walk-through of the scene.

The following analysis is based on investigative reports, witness statements, and audio recordings submitted to this office by LBPB Homicide Detail Detective Sean Irving. No compelled statements were considered in this analysis.

**FACTUAL ANALYSIS**

On September 5, 2015, at approximately 11:59 a.m., LBPB officers were dispatched to [REDACTED] Ladoga Avenue regarding a subject, later identified as Manuel Ornelas, who was under the influence of either drugs or alcohol and was vandalizing the reporting party, Mark M.'s, residence.<sup>1</sup> Officers Bookout, Lacsina, Petersen, and Van Duin all responded to the initial dispatch. Officer Moore and Sergeants Mark Kosoy and James Foster arrived shortly thereafter.

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<sup>1</sup> [REDACTED] Ladoga Avenue is a single family residence with an attached garage at the northwest corner of the property.



██████████ Ladoga Avenue

At the scene, Mark M. informed Bookout and Van Duin that his roommate, Ornelas, was high on methamphetamine, and was inside the residence breaking items. Mark M. stated Ornelas had pushed him, causing Mark M. to fear entering the residence. Mark M. advised officers that if Ornelas was not stopped, he was going to destroy his home and possibly hurt someone.

Suddenly, as they were standing outside, there was a loud sound of glass breaking. Mark M. yelled, “No! He’s inside my bedroom!” Mark M. advised the officers that he had an unsecured loaded 9 mm handgun, and an unloaded shotgun and rifle inside his bedroom.

In fear that Ornelas had high ground and could easily fire the guns from the second story window, Mark M. took cover in the porch area of ██████████ Ladoga Avenue, while Bookout, Lacsina, and Van Duin immediately took cover behind a tree located on the parkway of the same residence, which had a view to the back of the garage, the truck, and the second story window. As Petersen covered the south side of the residence, loud breaking sounds could be heard in the background. Suddenly, Ornelas threw a flat-screen television out the second floor southwest bedroom window causing it to shatter.



Television Thrown on the Driveway

Ornelas sat naked on the broken glass on the ledge of the broken window with a television remote in his hand. Fearing Ornelas may have had a gun in his hand, Lacsina, Petersen, and Van Duin closed off the street for the safety of the residents, and waited for additional units to arrive.<sup>2</sup>

After a few moments, Ornelas went back inside the residence through the broken window. Ornelas then walked down the stairs, and crawled on his elbows and stomach, out of a lower south facing window. Ornelas had a deep cut on his hand. Due to Ornelas' injury, the fire department was called to the scene.



Ornelas' Right Hand Injury

Moore and Foster were the first assisting units at the scene. As they set up behind Bookout and Petersen, Ornelas began to walk on the driveway located south of the residence. Ornelas was wearing gym shorts, but no shirt and shoes. He had a cloth wrapped around his right hand, which was completely soaked with blood. Ornelas walked to the back of the truck parked in the driveway, grabbed a mattress from inside the bed of the truck and threw it on the front yard. When Ornelas walked around the driveway, Van Duin yelled, "Stop!" However, Ornelas looked down with a blank stare and continued walking away. Ornelas appeared to be under the influence of a controlled substance. He was sweating profusely, had jerky body movements and was rambling.

Foster directed officers to take Ornelas into custody. The officers decided Ornelas should not be allowed back inside the home due to the danger posed by his potential access to the weapons in Mark M.'s bedroom. The officers approached Ornelas to take him into custody for being under the influence of drugs, trespassing, and vandalism. Suddenly, Ornelas ran into the garage. Bookout, Petersen, Lacsina, Moore and Van Duin chased after him.

From outside the garage, Petersen deployed his Taser. The two Taser darts impacted Ornelas' left shoulder area and buttocks. However, the Taser was not effective.

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<sup>2</sup> At this point, it appears only Bookout recognized the dark object in Ornelas' hand to be a remote control.



Garage Entrance with Taser Deployment Evidence on Ground

Ornelas failed to obey the officers' orders to stop, and continued running into the garage. As Ornelas made his way to the northeast corner of the garage, Bookout deployed his Taser but missed making contact with Ornelas. Ornelas stood behind a four-foot toolbox with a full size refrigerator behind him. Van Duin aimed her Taser at Ornelas' chest. However, as she deployed her Taser, Ornelas picked up a metal object, and brought it up towards his chest, blocking the Taser darts.



Northeast Corner of the Garage

Moore also deployed his Taser impacting Ornelas' chest. Ornelas' body stiffened as he fell onto his back. While mumbling, Ornelas pulled down his shorts, exposing his genitals. Van Duin and Petersen approached Ornelas in order to place him in handcuffs. Van Duin held Ornelas' left

hand, as Petersen placed a handcuff on Ornelas' wrist. When Van Duin asked Ornelas to sit up, Ornelas turned, looked straight at Van Duin, and said "I love you." Van Duin responded, "I love you, too. Sit up for me." Ornelas turned his head, and also told Petersen that he loved him.

Suddenly, Ornelas started screaming and kicking preventing Van Duin and Petersen from placing him in custody. Trapping Van Duin between the west wall and the refrigerator on the north wall, Ornelas kicked Van Duin on the left and right shins, left knee, and upper thighs.<sup>3</sup> Ornelas then shifted his body causing his head to hit a black oil drain pan full of motor oil. Ornelas was now covered in sweat, blood, and motor oil. In an attempt to prevent Ornelas from further physical resistance, Lacsina once again deployed his Taser aiming it at Ornelas' chest and abdomen area. The darts landed on Ornelas' abdomen, and Lacsina discharged his Taser for five seconds. However, the Taser was again ineffective. Ornelas grabbed the Taser wires and pulled them away from his body. Lacsina then moved towards Ornelas' right side and ordered him to stop kicking. When Ornelas continued to kick in Lacsina's direction, Lacsina applied his Taser in drive-stun mode to Ornelas' abdomen in an effort to gain Ornelas' compliance.<sup>4</sup> However, Ornelas kicked his left foot upward toward Lacsina's chest causing Lacsina to step back. As Ornelas continued kicking, Lacsina again applied his Taser in drive-stun mode to Ornelas' lower leg area, but again it had no effect.

Ornelas continued to physically resist; kicking and pushing Petersen and Lacsina off of him. Because the Taser applications had been ineffective, Lacsina then began pushing Ornelas onto his right side in an attempt to get control of Ornelas' body. Ornelas was slippery due to the oil on his body, so it took several attempts, but Petersen and Lacsina eventually rolled Ornelas onto his abdomen. At that point, Petersen placed a handcuff on Ornelas' left wrist, but Ornelas stiffened his left hand and tucked it under his body. Unable to pull the handcuffed left wrist to the right side of Ornelas' body, Lacsina placed a second handcuff on Ornelas' right wrist and pulled the right wrist towards the left wrist in an attempt to handcuff him. Ornelas was repeatedly told to stop resisting and to place his hands behind his back, however, he refused to comply.

Confronted with a rapidly escalating situation, Moore placed Ornelas in a carotid restraint for approximately eight to ten seconds.<sup>5</sup> Ornelas lost consciousness, and Lacsina was finally able to attach the two handcuffs together. Lacsina rolled Ornelas onto his left side while Bookout and Van Duin checked his pulse. Ornelas' eyes were rolled back and he was not moving. Lacsina

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<sup>3</sup> Van Duin sustained a strain to her left ankle and knee, a pulled hamstring in her left leg, and an injured tendon on her left thumb.

<sup>4</sup> In drive-stun mode, the front of the Taser is pushed firmly against the subject's body during activation of the electrical circuit.

<sup>5</sup> The carotid restraint is authorized per LBPD Policy 7.1.2.5 and Training Bulletin 167. Per Training Bulletin 167, "The Carotid Restraint is authorized to subdue violent suspects who cannot be controlled by a lower level of force, but where the use of lethal force is not justified or authorized." Further, "The Carotid Restraint shall be used only after other Weaponless Control Techniques have been determined ineffective or inappropriate for use by the involved officer[s]." Properly applied, the carotid restraint constricts blood flow through the carotid arteries, which supply oxygenated blood to the brain. Unconsciousness occurs typically within 3-15 seconds, but breathing continues uninterrupted. Consciousness is typically regained in 20-30 seconds.

and Bookout pulled Ornelas out of the garage, and Lacsina began to perform CPR. Lacsina did approximately thirty chest compressions, while Moore performed rescue breathing. Van Duin eventually relieved Lacsina in performing the chest compressions until the Long Beach Fire Department arrived and took over resuscitation efforts.

Ornelas was transported to the Los Alamitos Medical Center where he was subsequently pronounced deceased.<sup>6</sup>

### **Statement of Mark M.**

Mark M.'s parents own the residence at [REDACTED] Ladoga Avenue where Mark M. leases out the rooms and collects the rents. Mark M. resides in the upstairs master bedroom of the residence, which he shares with Ornelas and three other roommates. Ornelas was occupying the upstairs northwest corner bedroom.<sup>7</sup>

On the morning of September 5, 2015, Mark M. went for a jog and returned at approximately 10:00 a.m. When he returned, Ornelas was in the garage, and there were hoses in the trash can and debris in the yard. Ornelas had removed cases of water from the back of Mark M.'s truck and was "chugging the water down." Mark M. questioned Ornelas about the water, and Ornelas replied it was "their" truck, and addressed Mark M. as "Baby."<sup>8</sup> Mark M. asked Ornelas if he was "high" on methamphetamine, and Ornelas replied that he was high on "something." Mark M. advised Ornelas to deal with his issues and went inside the residence.

After passing by Ornelas' room and seeing that Ornelas had destroyed the ceiling fan, Mark M. called the police. Ornelas followed Mark M. around the house, prompting Mark M. to go outside. However, Mark M. went back inside the residence to charge his cell phone. When Ornelas stated that he was going to take a shower, Mark M. informed him that he, Ornelas, would not be doing that because the police were on their way. Ornelas stripped down nude in the bathroom and told Mark M., "Come on baby, join me here." Mark M. declined and went outside.



Ornelas' Bedroom with Broken Ceiling Fan

<sup>6</sup>

[REDACTED] Ornelas was admitted to the hospital at 11:42 a.m. and pronounced dead at 11:57 a.m.

<sup>7</sup> The three other roommates were not home at the time of this incident.

<sup>8</sup> Mark M. did not have an intimate relationship with Ornelas.

The police arrived, and Mark M. spoke to them briefly outside. As he was speaking with the police, Mark M. realized he had left his bedroom door open and Ornelas was now in his room. Mark M. kept three guns in his bedroom; a 9 mm handgun, a shotgun, and a rifle. The handgun had a loaded magazine in it, and there were no trigger locks on any of the weapons. Upon realizing that Ornelas had entered his room, Mark M. immediately advised the officers that Ornelas now had access to his weapons.

### **Statement of Officer Harrison Moore**

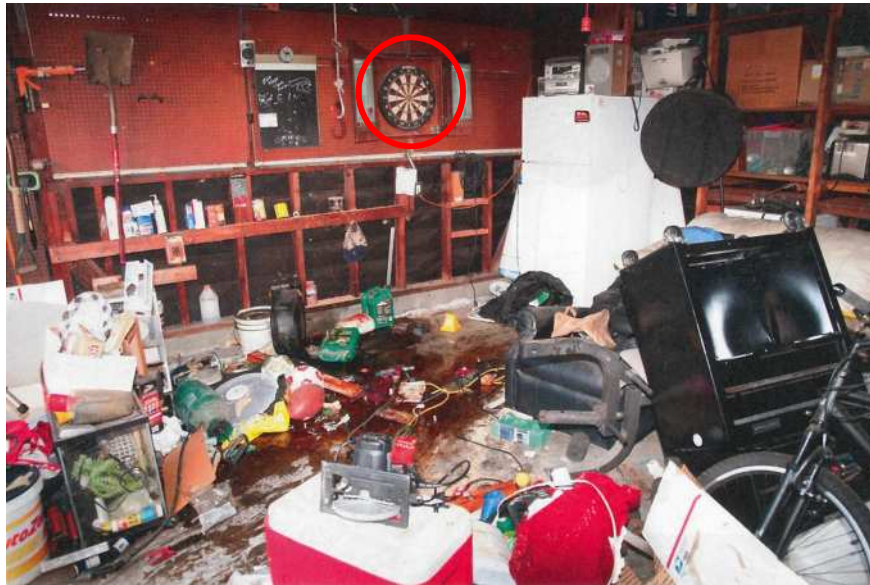
While responding to the call of a person that was under the influence of drugs, Moore heard Lacsina air over the radio that Ornelas was throwing televisions and was inside a bedroom where firearms were located. One of the firearms was unlocked, and it was unknown if Ornelas had the firearm on him. Lacsina aired that Ornelas had been on the roof and had high ground on the officers. Bookout also aired that Ornelas had been vandalizing his roommate's property, and was under the influence of methamphetamine.

Moore arrived at the same time as Foster and Kosoy. Shortly thereafter, Moore observed Ornelas crawling on the south side of the residence. Ornelas ran to the back of a pickup truck parked in the driveway, removed a mattress and threw it onto the grass, before quickly walking towards the front door of the residence. Ornelas right hand was bleeding profusely, and he appeared to be under the influence of drugs; he was sweating profusely and had a blank stare.

Moore and the other officers decided it was imperative to prevent Ornelas from re-entering the residence, as he could arm himself with the weapons located inside. Petersen aimed his Taser at Ornelas, as Moore provided lethal cover. Moore ordered Ornelas to get down on the ground, but Ornelas did not comply and continued walking towards the front door. Petersen then deployed his Taser from approximately 25 feet away. Ornelas slightly tensed up his entire body as if he had been struck, but did not drop to the ground. The Taser appeared to be ineffective, and Ornelas ran into the open garage.

The entire garage was filled with tools, as well as heavy and sharp objects that could be used as weapons. The northwest wall of the garage had a dartboard with sharp metal darts. Additionally, there was a circular saw, table saw, bench, shop vacuum, router, shovels, rakes and other gardening objects at the front and west wall of the garage. In the middle of the garage, there was a collapsible table and other large items.





Dart Board with Darts and Miscellaneous Garage Items

Van Duin, Lacsina, Bookout, and Petersen took positions on the west side of the open garage door, while Moore took a position on the east side of the door. Ornelas ran into the northwest corner of the garage in front of a refrigerator, and right next to the dartboard. Ornelas flipped over the collapsible table, causing sharp metal objects to be flung up in the air. Moore ordered Ornelas to “Get down on the ground!” five separate times, but Ornelas failed to comply. Moore heard two separate Taser deployments, but did not see who deployed them. The Tasers appeared ineffective, as Ornelas continually ducked up and down while flipping items towards the officers.

Moore determined that the altercation had to end quickly in order to render medical aid to Ornelas, whose hand was bleeding profusely, and to prevent harm to the officers. Moore feared that Ornelas could arm himself with any of the sharp or heavy objects in the garage, and the officers would then be forced to respond with lethal force. Moore walked into the garage, through a clear pathway, and deployed his Taser towards Ornelas’ lower abdomen from approximately ten feet away. Ornelas was facing Moore, had his fists clenched, and was ducking his body up and down when he was struck with Moore’s Taser. One Taser dart impacted Ornelas’ right chest, and the other his left, but Moore could not tell if the darts were from his Taser. Ornelas fell to the ground, but continuously rolled from side to side and tensed his arms. Moore deployed his Taser for six additional seconds, after its initial five second cycle, as Ornelas continued rolling around, and resisted the officers’ attempts to take him into custody.

Ornelas stopped rolling around, and Van Duin and Petersen went behind Moore towards Ornelas. Moore remained on top of a workout bench, providing cover as Petersen placed one handcuff on Ornelas’ left wrist, and Van Duin assisted by attempting to gain control over Ornelas’ arms. However, Ornelas then began violently thrashing from side to side. Moore ordered Ornelas to stop resisting, but Ornelas continued violently thrashing about. Ornelas kicked upwards at

Petersen's face, causing Petersen to fall backwards. Ornelas also kicked approximately five times at Van Duin and Moore. Ornelas struck Moore on the left thigh and right forearm.<sup>9</sup> Ornelas was now armed with a free swinging handcuff which could be used as a weapon, prompting Moore to deploy his Taser a third time. Moore activated his Taser for a five second cycle, but Ornelas did not stop kicking or thrashing around. It appeared the dual-prong connection had been broken while Ornelas was rolling around on the ground.

Moore attempted to re-initiate the dual-prong connection by performing a Taser drive-stun application on Ornelas' left shin area. Moore activated the cycle for approximately five more seconds, but it still had no effect.<sup>10</sup> Ornelas kicked Moore's left hand, striking the Taser and preventing Moore from re-initiating a connection.

As Moore began to put on gloves in order to physically assist Van Duin and Petersen with taking Ornelas into custody, he heard a Taser deployment but did not see who deployed it. Ornelas momentarily tensed his body before thrashing about violently from side to side. Ornelas was on his back, kicking towards the officers in front of him. Moore gained control of Ornelas' left arm, and was able to roll Ornelas onto his stomach. Moore ordered Ornelas to stop resisting and place his hands behind his back, but Ornelas continued to resist.

In light of the fact that multiple officers had deployed their Tasers without effect, all physical attempts to subdue Ornelas by placing his hands behind his back had failed, the close quarters of the garage would not allow for effective impact weapon strikes, the area was cluttered with numerous objects that could be used as weapons by Ornelas, Ornelas had a free swinging handcuff on his left wrist that could be used as a weapon, and the encounter was quickly escalating into a possible deadly force encounter if Ornelas' resistive and combative actions were not ceased, Moore decided to apply a carotid restraint on Ornelas. Moore was the only officer in a position to do so based on his close proximity to Ornelas. Moore encircled Ornelas' neck with his left arm for approximately ten seconds. During the ten seconds, Ornelas continuously struggled to get out of the hold by thrashing his body from side to side. Moore told Ornelas to stop resisting. Ornelas was rendered unconscious, and Moore immediately released the carotid restraint. Moore observed Ornelas' chest rise and fall two times while he was in a prone position, and it appeared as if Ornelas was breathing normally.

Moore went back to his vehicle to secure his rifle, and upon returning observed Ornelas was now outside the garage, and Lacsina was performing CPR chest compressions on him. Moore also assisted by performing rescue breaths. Moore administered a total of six rescue breaths to Ornelas before LBFD responded and took over resuscitation efforts.

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<sup>9</sup> Moore sustained a visible abrasion to his left bicep.

<sup>10</sup> It appears Moore attempted to deploy his Taser on four separate occasions, but only three attempts successfully registered in the Taser's data log.

### **Statement of Officer Steven Petersen**

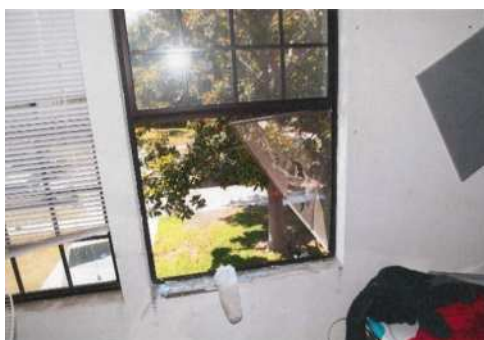
Petersen responded to the call of an intoxicated suspect on drugs at the location. Upon his arrival, Bookout, Lacsina, and Van Duin were already at the location speaking to the homeowner, later identified as Mark M.

At the scene, occasional muffled banging and crashing sounds were heard coming from inside the residence. At one point, there was a loud crashing sound. The noise was coming from the upstairs room with a window on the south side. Mark M. expressed concern that Ornelas was now in his room where he had a shotgun and a 9 mm handgun, which were probably loaded.

Petersen moved south of the residence to try to get a better visual on the house. Petersen then got in his patrol vehicle, and drove to the northeast corner of Metz Street and Ladoga Avenue. As Petersen exited his patrol vehicle and stood behind it, he heard a crashing sound and saw glass flying out of the upstairs window as it was being broken out. The mini-blinds were also ripped down, and then Ornelas threw the window and mini-blinds onto the driveway. Ornelas threw other items out the window as well. Sounds of bangs and crashes continued to be heard coming from the rear of the residence.



One of Several Mini-blinds Ripped by Ornelas



Second Floor South (Front) Facing Broken Window

Ornelas suddenly came downstairs near the front door. He was wearing gym shorts, but was not wearing a shirt. His right hand was wrapped in a towel and soaked with blood. Ornelas kicked out the screens to the two lower windows and disappeared going south. Ornelas broke the south

facing window and threw out the mini-blinds. He then crawled out the broken window and crouched down next to it. Ornelas turned on the water spigot next to the window and rinsed blood off his upper body and arms. Ornelas was sweating profusely. After a few moments, Ornelas stood and began walking down the driveway. Bookout and Petersen summoned Ornelas, who looked at Petersen, and stopped at the rear of the pickup. Ornelas pulled a mattress off the truck bed and held it up near his chest area as a shield. Petersen said, "Hey, buddy, come here" several times, but Ornelas had a blank stare and failed to acknowledge the officers' presence. Due to his violent and erratic behavior, as well as his potential access to loaded firearms and higher ground, Petersen and Bookout decided they were going to use force to prevent Ornelas from re-entering the residence.

When Ornelas began walking north, Petersen and Bookout moved forward to a patrol car which was parked in front of the residence. From a distance of approximately 15 feet, Petersen deployed his Taser at Ornelas' back. One of the Taser probes struck Ornelas' left shoulder area, while the second probe struck him in the buttocks. Ornelas cried out, staggered down, and almost fell before running into an opened garage. The garage was cluttered with tools, junk, furniture, laundry machines, and debris. There were also several large tool chests and heavy items. Ornelas was frantically wading his way deeper into the garage through the debris. Ornelas appeared to be in a heightened state of panic as he threw tools and items in all directions.

Ornelas initially took cover behind a miter saw, before standing up, picking up the miter saw, and throwing it towards Petersen. Ornelas then picked up the miter saw stand, and threw that towards Petersen as well. By this time, Lacsina, Bookout, Van Duin, and Moore, also entered the garage along with Kosoy and Foster. Moore deployed his Taser impacting Ornelas' right upper torso. This was the first Taser deployment that appeared to have any effect on Ornelas. Ornelas immediately bent forward slightly, grimaced out loud, and slumped down onto the floor in a seated position. Ornelas then slid onto his side with his back pushed up next to the western wall of the garage. Ornelas was now lying in a puddle of blood and motor oil, and the floor was very slippery. This was a very small area, and was full of garage items that severely limited the officers' ability to get to him.

Petersen and Van Duin were the first to clear a path to Ornelas. Petersen was next to Van Duin on the left side, but there was no room for any other officers. Ornelas told Van Duin, "I love you" as he reached down with both hands and pulled his shorts down, exposing his genitals. As Van Duin got closer, Ornelas gained intense new energy and began to thrash about. Van Duin took Ornelas' left hand, as she and Petersen attempted to calm Ornelas down.

As Petersen and Van Duin attempted to grab Ornelas' other wrist to handcuff him, Ornelas wiggled, struggled, and pulled away. Petersen finally handcuffed Ornelas' right wrist. Ornelas said, "I love you, too," and Petersen observed that Ornelas' pupils were so dilated that you almost could not see the color of his iris. Ornelas had a blank stare and was sweating heavily. When Van Duin and Petersen tried to turn Ornelas on his side, he remained very rigid, and with the limited space, it was difficult to move him. Ornelas was partially propped up against the west wall of the garage, so that his upper torso was against the wall, and the rest of his body was

lying on the garage floor. Unable to handcuff him behind his back, Petersen attempted to handcuff him in front. Petersen reached down and grasped Ornelas' right arm. The T-shirt Ornelas had used to bind his hand came off, and he was bleeding from lacerations to his hand and wrist. Ornelas began to pull away from Petersen. Due to the blood and oil on his body, Petersen could not maintain his grip as Ornelas pulled his right arm away.

Ornelas was able to maneuver himself onto his back, and he started to kick with full force at Petersen and Van Duin. Petersen stepped back, but still maintained control of the unattached handcuff, as Ornelas began to swing out his free arm and use his legs like a "piston," driving them towards Petersen's legs. Ornelas struck several glancing blows to Petersen's left shin with the heel of his foot, causing Petersen to retreat, but still hang onto the cuff. Ornelas then kicked upwards and his foot came so close to Petersen's face, that Petersen released the grip on the handcuff, and fell back to avoid being struck. Petersen fell against an arm chair that was behind him, and the momentum carried him onto a couch.

By this time, some of the debris had been cleared, and other officers moved in to try to drive-stun Ornelas. Ornelas continued to resist the other officers as Petersen tried to get back up to assist. Moore's chest was now on Ornelas' back and the other officers were around his torso. The officers were attempting to prevent Ornelas from getting on his knees or feet, in a position where he could easily grab an object, such as tools or sharp blades, and use them as a weapon. Moore darted around Petersen and next to Van Duin. Moore wrapped his arm around Ornelas' neck and placed him in a carotid restraint for approximately eight to ten seconds. Ornelas was in a face down position with Moore straddling over his back. Ornelas lost consciousness, and the officers were finally able to handcuff Ornelas' other wrist.

Bookout checked Ornelas' breathing and pulse, but was unable to locate a pulse. After getting debris out of the way, other officers were able to pull Ornelas out of the garage and began performing CPR on Ornelas. Shortly thereafter, the fire department responded, and transported Ornelas for medical treatment.

### **Statement of Sergeant James Foster**

Foster was one of the first assisting units at the scene. Once Ornelas was observed in the driveway, Foster directed the officers to take him into custody. Shortly thereafter, Ornelas retreated into the attached garage. Foster was at the entry of the garage, and along with Van Duin and Petersen, was attempting to move items out of the way in an effort to reach Ornelas. Van Duin was the first to clear a path to Ornelas. As Van Duin got closer, Ornelas began to thrash about.

As Ornelas said, "I love you" or "Do you want to see how much I love you?" he reached down with both hands, and pulled his pants down exposing his penis. Van Duin and Petersen were able to handcuff one of Ornelas' wrists, but Ornelas continued to struggle and pull away. Ornelas was able to maneuver himself onto his back, and he started to kick with full force at the officers. Petersen then stumbled backwards, and fell onto a sofa. In the meantime, Van Duin

was still struggling to control Ornelas. One handcuff was still attached to Ornelas' hand, as Ornelas rolled onto his stomach. Foster did not want Ornelas to get to his knees or feet, because he could then easily arm himself with dangerous tool items that were within arms' reach.

Moore darted around Petersen and next to Van Duin. Moore took the initiative to wrap his arm around Ornelas' neck, and place him in a carotid restraint. Foster believed the carotid restraint was the only effective tool they had available at the time to take Ornelas safely into custody because Tasers had been ineffective, there was no room to safely swing a baton, and the close quarters position in a confined environment made pepper spray an unusable option.

Foster was approximately four to five feet from Moore as Moore applied the carotid restraint.<sup>11</sup> Ornelas was in a face-down position with Moore straddling over his back. Foster positioned himself so as to have a clear view of Moore's application because he wanted to ensure that Moore was applying pressure to the sides of Ornelas' neck to cut off the blood flow, and not to the front of the neck, where it could damage the windpipe. Foster opined that Moore applied the carotid restraint correctly. Foster estimated that Moore applied the carotid restraint for approximately eight seconds before Ornelas lost consciousness. Moore released the carotid restraint, and got off Ornelas. Ornelas was then handcuffed, and the handcuffing officers stepped away to give Ornelas air and space.

As Foster looked closer at Ornelas, he could not see Ornelas' torso rising and lowering with a normal breath of air. Foster ordered Van Duin, who was standing next to Ornelas, to check Ornelas' carotid for a pulse. Van Duin bent down, placed two fingers on Ornelas' neck, and reported she did not feel a pulse. Van Duin turned Ornelas onto one side, and Foster observed that Ornelas' eyes were open and locked in a fixed, blank stare.

As soon as a path was cleared, approximately two to three seconds later, officers pulled Ornelas out of the garage onto the front driveway. Ornelas was then un-cuffed, and Lacsina began chest compressions, which were followed by rescue breathing by Moore. The officers continued performing CPR until paramedics arrived a few moments later.

### **Physical Evidence**

The residence at [REDACTED] Ladoga Avenue has six bedrooms, three upstairs and three downstairs, four of which were ransacked. There were blood stains and blood smears located throughout the inside of the residence, in the backyard, and in the driveway. A Toyota truck was parked in the driveway directly in front of the residence. There was miscellaneous debris, which appeared to have been thrown in the driveway, including a pair of white shoes, a ladder, television, window blinds and screens, and other personal items.

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<sup>11</sup> As Moore applied the carotid restraint, Foster ordered the other officers to back off because he did not want to risk other officers "dog-piling" on top of Ornelas, hindering his ability to breathe, nor did he want anyone discharging their Taser while Moore was in the process of controlling Ornelas.

The garage door was completely open, and inside the garage there were numerous items, including boxes, tools, a refrigerator, couch, and a washer and dryer. Signs of a struggle were evident inside the garage. There was a work table that had been knocked onto its side, a broken black leather chair directly in front of a couch, and tools that were knocked over and scattered throughout the garage. Along the west side of the garage, there was a large amount of motor oil on the concrete floor.

In the backyard right outside the kitchen, there was a broken wooden slatted patio cover, and the glass top of the patio table was shattered. There were broken chairs, a shower nozzle, clothing, a sliding screen door, as well as a broken sliding door frame. Along the east wall of the property, the screen door had been removed from a sliding door, and was lying on the ground inside the backyard.



Backyard with Screen on Ground, Broken Furniture and Broken Windows

Inside the residence, a window located on a landing on the first floor was open, and a vertical blind was resting on the landing. In the kitchen, a kitchen drawer had been removed, broken, and was upside down on the floor.



Kitchen with Blood Trail on Floor and Damaged Drawers

On the second floor of the residence, the master bedroom was completely ransacked. There was a broken wooden bed frame scattered throughout the room, a broken ceiling fan, broken glass throughout the floor, and a mattress lying on the floor. The box spring to the bed was on its side. The bedroom door to the master bedroom was broken off its hinges, and was lying on the floor on top of a shattered mirror, which had previously been attached to the door. A bookshelf was turned on its side, and an entertainment center had a missing television.



Mark M.'s Master Bedroom

Along the east wall, there was a window that appeared to have been broken with a dumbbell that was resting on the window. The sliding door, also on the east wall, had been shattered.





Shattered Sliding Glass Door to Master Bedroom

In the middle of the bedroom, there was an opened blue plastic gun case containing a 9 mm handgun. The slide was locked back, and there was a loaded magazine inside the handgun. Underneath the blue gun case, there was a red, soft case rifle bag which contained a rifle. A black plastic case containing a shotgun was also on the floor, as well as a large ammunition box. The ammunition box was on its side, and several loose 9 mm rounds had spilled onto the floor.



Blue Plastic Gun Case with Gun with Red Rifle Bag Containing Rifle Underneath, Black Plastic Shotgun Case Containing Shotgun, and Ammunition Box

Ornelas' room, located on the second floor in the northwest corner of the residence, was in disarray. There was clothing strewn across the room, the bed was flipped over, the mattress pad was separated from the box spring, and the furniture was moved into the center of the room.

## **Taser Evidence**

There was evidence of several Taser deployments throughout the outside of the residence. A Taser cartridge door, Taser cartridge, and a Taser probe were located in the driveway. A Taser cartridge door was located outside the southwest corner of the garage, and two Taser cartridges were located at the entry of the garage. Inside the garage, there were three Taser cartridges, a Taser cartridge door, Taser wire and two probes, and a Taser which was located on top of a dryer.<sup>12</sup>

The X26P Tasers assigned to Bookout, Lacsina, Moore, Petersen, and Van Duin were downloaded and examined for proper operation. The Tasers record information into an Event Log which is a recording of the date, time, and details of each event that occurs with the Taser, including every time the trigger is pulled and the duration of the events (in seconds). All the Tasers were found to be functioning within electrical specifications and properly recording data. The Taser examinations revealed the following pertaining to their activation for the date of September 5, 2015:

There were a total of eleven Taser activations. Petersen's Taser was activated once for five seconds at 11:18:15 a.m. Bookout's Taser was trigger activated two times for five seconds; once at 11:18:21 a.m. and a second time at 11:18:27 a.m. Lacsina's Taser was trigger activated a total of four times each for five seconds; once at 11:18:24 a.m., a second time at 11:20:47 a.m., a third time at 11:20:58 a.m., and a fourth time at 11:21:04 a.m. Van Duin's Taser was trigger activated one time at 11:18:39 a.m. for five seconds. Lastly, Moore's Taser was trigger activated a total of three times; once at 11:18:47 a.m. for six seconds, a second time at 11:20:39 for five seconds, and a third time at 11:20:47 a.m. for four seconds.

## **Postmortem Examination**

On September 8, 2015, Forensic Pathologist Yong-son Kim performed a postmortem examination of Ornelas. At the time of his death, Ornelas was 5'6" tall and weighed 196 pounds. The autopsy examination revealed that Ornelas was very muscular.

Superficial abrasions and contusions were present on Ornelas' body. Abrasions were present on Ornelas' legs, arms, on the area lateral to his left eye, and above his right temple area. Contusions were present on Ornelas' right hand and elbow, right ankle and foot, and left arm. Two parallel round contusions, consistent with Taser drive-stun applications, were also present on Ornelas' body; one on Ornelas' left flank, and the other on his left upper leg. There were superficial cuts on Ornelas' hands, an incision on his outer right wrist, a smaller cut along the lateral right wrist, and a cut on the right thumb nail.

Three Taser darts were recovered from Ornelas' body; one Taser dart was removed from his right middle back, a second one from his right abdomen, and a third one from his left ribcage.

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<sup>12</sup> This Taser device was subsequently identified as the Taser assigned to Petersen.

On Ornelas' left abdominal area, there were two dart marks without prongs. One additional dart mark was present on Ornelas' right upper thigh, and a detached long metal wire was recovered from Ornelas' upper back.

There was evidence of a fracture of the right superior horn of the thyroid cartilage. In a phone interview with the District Attorney's Office, Dr. Kim elaborated on the post-mortem findings. Dr. Kim explained that although the fracture of the thyroid cartilage appeared to have been caused by active compression of the neck organ, this, by itself, was not a cause of death and, appeared to be consistent with a brief compression of the neck, likely a result of the carotid control hold restraint applied on a struggling suspect. Significantly, this was an isolated finding and, hence, not indicative of manual strangulation. Dr. Kim explained that the fracture of the thyroid cartilage did not appear to be a result of a prolonged compression to the neck, as there was no evidence of other fractures to the neck organs, petechial hemorrhage of the lids or eyeballs, nor was there any evidence of hemorrhage of the throat organs or thyroid.<sup>13</sup> Likewise, there was also no evidence of skeletal or scalp/skull fractures, nor did the spine reveal any evidence of trauma or hemorrhage.

There was evidence of mild cerebral swelling, but there was no evidence of brain hemorrhage, nor was there evidence of any cerebral contusions. Dr. Kim explained that isolated evidence of mild cerebral swelling, such as in this case, without any other evidence of brain hemorrhage or cerebral contusion, is "not uncommon with a drug overdose." Dr. Kim explained that during a drug overdose, there is an initial stimulation of blood, but once the toxic effects of the drugs "take over" and the heart stops, all fluids stop, resulting in a sudden accumulation of fluids, particularly in the brain, which accounts for the mild cerebral swelling.

The heart was severely enlarged and dilated, and there was evidence of severe coronary artery disease. Dr. Kim noted that there was evidence of 80% stenosis (blockage or narrowing) of the right coronary artery, and 70% stenosis of the diagonal branch. Dr. Kim explained a severely enlarged heart is consistent with a history of chronic drug abuse.<sup>14</sup>

The toxicological examination showed a fatal amount of methamphetamine in Ornelas' body.<sup>15</sup> Dr. Kim attributed the cause of death to acute methamphetamine and amphetamine intoxication.

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<sup>13</sup> Dr. Kim explained that since a fracture was evident only on one side of the thyroid cartilage, not on both sides of the neck's thyroid cartilage, this indicates compression was not being applied on *both* sides of the neck, as in a manual strangulation. Further, the lack of any evidence of hemorrhage of the eyes is further indication that there was no manual strangulation.

<sup>14</sup> Notably, LBPD Training Bulletin Number 167 lists cardiac arrest as a danger of a properly applied carotid restraint control hold: "During application of the carotid restraint these nerves [cardiac nerves] are stimulated which could produce momentary irregular cardiac activity. This could incite cardiac arrest if the subject has a cardiac disorder [sic] hypertension, or an underdeveloped nervous system (youths 14 and under). Effects of drugs, alcohol and or medical disorders may increase this danger."

<sup>15</sup> The toxicology result for methamphetamine was 2.58 mg/L (milligrams per liter). Dr. Kim stated that a 2.0 mg/L result or above, "by itself," is considered a fatal amount of methamphetamine.

A condition contributing to, but not related to the immediate cause of death, was severe cardiomegaly with dilatation.<sup>16</sup>

The manner of death was classified as accidental.

Although acknowledging that several Taser activations and a carotid restraint control hold preceded Ornelas' death, Dr. Kim nonetheless opined, based on the totality of the autopsy evidence, that Ornelas' death was caused by the acute methamphetamine and amphetamine intoxication (with the contributing cardiomegaly condition), and not due to the officers' actions.

## LEGAL ANALYSIS

A peace officer may legally arrest someone if he has probable cause to make the arrest. Penal Code section 836a; CALCRIM No. 2670.

A peace officer may use reasonable force to arrest or detain someone, to prevent escape, to overcome resistance, or in self-defense. Penal Code section 835a; CALCRIM No. 2670.

A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect an arrest or to prevent escape or to overcome resistance. Penal Code section 835a.

In *Graham v. Connor* (1989) 490 U.S. 386, 396-397, the Court held that use of force cases are to be reviewed using an objective standard of the reasonable officer:

“The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. [Citation] . . . With respect to a claim of excessive force, the same standard of reasonableness at the moment applies: ‘Not every push or shove, even if it may later seem unnecessary in the peace of a judge’s chambers,’ [Citation] violates the Fourth Amendment. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain, and rapidly evolving - about the amount of force that is necessary in a particular situation.”

Placing a person wearing handcuffs and leg restraints in a prone position is reasonable where the person has violently resisted arrest. See *Mayard v. Hopwood* (8<sup>th</sup> Cir. 1997) 105 F.3d 1226; *Price v. County of San Diego* (1998) 990 F.Supp. 1230; *Simpson v. Thompson* (2010) 2010 U.S. Dist. LEXIS 114941.

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<sup>16</sup> Cardiomegaly is a medical condition in which the heart is enlarged. An enlarged heart may not pump blood effectively, resulting in congestive heart failure. Although the most common cause of cardiomegaly is congenital, other possible causes include HIV infection, and alcohol or cocaine abuse. Mary M., Ornelas' mother, informed investigators that Ornelas was HIV positive.

The use of a Taser constitutes an intermediate, significant level of force that must be justified by the governmental interest involved. *Bryan v. McPherson* (2010) 630 F.3d. 805, 826.<sup>17</sup> Use of a Taser is subject to the same reasonableness test as the use of force generally. See, *Hinton v. City of Elwood* (1993) 997 F.2d 774, 777 (not excessive for officers to use an “electrical stun gun” on a man after grabbing him and wrestling him to the ground, because of his active resistance to arrest). The use of a Taser falls within the category of non-lethal force. *Bryan*, supra, 630 F.3d at 825; See also, *Lewis v. Downey* (2004) 581 F.3d 467, 475. When feasible, officers must normally provide a warning and the failure to give such a warning is a factor to consider. *Bryan*, supra, at 831.

The use of a neck-hold to restrain a suspect who is actively resisting officers is not unreasonable. *Gregory v. County of Maui* (2008) 523 F.3d 1103. See, *Carleton v. Superior Court* (1985) 170 Cal.App.3d 1182, 1190-1191 (not excessive for officers to apply a carotid restraint on a suspect who was aggressively resisting police efforts to control him). See also, *Tatum v. City and County of San Francisco* (2006) 441 F.3d 1090, 1097 (objectively reasonable for an officer to use a control hold to secure a suspect’s arm long enough to place him into handcuffs, where suspect was potentially violent, behaving erratically and resisting arrest).

The evidence examined in this investigation shows that Officers Bookout, Lacsina, Moore, Petersen, and Van Duin responded to Mark M.’s call reporting his roommate, Ornelas, was under the influence of drugs and vandalizing the residence. Shortly after the officers’ arrival, the seriousness of the situation escalated to a dangerous level when it was discovered that Ornelas had made entry into Mark M.’s bedroom, thereby gaining access to three firearms, which included, a loaded 9 mm handgun, a rifle, and a shotgun. Ornelas was in dire need of medical attention, bleeding profusely from his right hand, and destroying property and breaking windows. Due to his violent and erratic behavior, the officers reasonably decided to arrest Ornelas once he exited the residence for his own safety, as well as the public’s safety, since he posed a lethal threat to the public if he was allowed to re-enter the residence and gain access to the weapons. In light of this, the officers’ deployments of their Tasers in order to stop Ornelas from re-entering the residence, and to take him into custody, were reasonable.

Further, the evidence examined shows that Ornelas repeatedly refused to obey the officers’ commands to surrender, and instead, entered a garage where he physically resisted the officers’ attempts to take him into custody. The physical constraints of the garage limited the officers’ ability to employ other force options beyond the Taser. The evidence shows that the officers first attempted to get Ornelas under control by deploying their Tasers numerous times. All five officers deployed their Tasers to no avail. Taser drive-stun applications were then attempted, to get Ornelas to comply. The officers’ additional deployments of their Tasers within the garage were also reasonable. Nonetheless, Ornelas failed to surrender, and physically resisted the officers’ attempts to take him into custody.

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<sup>17</sup> In *Bryan*, supra, the officer used a Taser in dart-mode which, when deployed correctly, has a greater impact on the subject than when used in drive-stun, or contact, mode. The cases cited by *Bryan* do not distinguish between dart and drive-stun modes.

Faced with the possibility that Ornelas could arm himself with any one of the garage tools which could have easily been used as a weapon, Moore decided to put a stop to Ornelas' ongoing physical resistance by applying the carotid restraint. By the witnessing officers' accounts, which are supported by the autopsy evidence, the carotid restraint application was brief and, per Sergeant Foster, properly applied. A few seconds later, Ornelas was rendered unconscious, thereby allowing the officers to handcuff him. In light of Ornelas' ongoing physical resistance, Moore's application of the carotid restraint was reasonable.<sup>18</sup>

The evidence examined further shows that, despite the officers' prompt attempts at resuscitation, Ornelas failed to regain consciousness. The post-mortem examination revealed that the cause of Ornelas' death was acute methamphetamine and amphetamine intoxication (with a contributing cardiomegaly condition), and not due to the officers' actions. Ornelas' toxicology result revealed he had *more* than what is considered a fatal amount of methamphetamine in his body. The extremely high amount of methamphetamine in Ornelas' body, combined with Ornelas' severely enlarged and compromised heart, caused his death, concluded Dr. Kim.

It bears noting that even if Dr. Kim had concluded that the officers' actions, the Taser deployments and the carotid restraint, had caused or contributed to Ornelas' death, the outcome of this legal analysis would remain the same. Such a scenario would not alter the legal conclusion that the officers' actions in this case were reasonable, given the challenging circumstances posed by Ornelas' ongoing physical resistance and the confined, potentially dangerous environment in which the struggle with Ornelas unfolded.

## **CONCLUSION**

Based upon the foregoing analysis, we decline to initiate criminal proceedings against Officers Sean Bookout, Randy Lacsina, Harrison Moore, Steven Petersen, and Sharon Van Duin. We are closing our file and will take no further action in this matter.

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<sup>18</sup> Although not dispositive, it bears noting that the carotid restraint *is* an authorized use of force per LPBD policy, and thus, Moore was acting within LBPB policy when he applied the carotid restraint.