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December 12, 2012

**REPORT ON OFFICER-INVOLVED SHOOTING OF JOSE LUIS ORTEGA  
BY SANTA MARIA POLICE AND THE SANTA BARBARA COUNTY SHERIFF  
ON JUNE 28, 2012**

The Santa Barbara County District Attorney's Office has completed its review of the investigation by the Santa Barbara County Sheriff's Office of the homicide of Jose Luis Ortega that occurred on June 28, 2012, in Santa Maria, California.

The District Attorney finds the shooting was a justifiable homicide under Penal Code section 196(2).

It has been determined that Ortega was a member of a known criminal street gang. Therefore, the District Attorney carefully balanced the public's right to know the identity of certain witnesses and the involved law enforcement officers versus the threat of harm to those witnesses or officers. At this time it is too dangerous for the safety of those individuals to release their names because there have been documented threats to retaliate against these law enforcement officers. The District Attorney may release the identity of the parties at a later time when it is determined that a threat no longer exists.

**SUMMARY**

On June 28, 2012, at approximately 7:00 a.m., Santa Maria Police Officers, Santa Barbara County Sheriff's Deputies, and California State Parole Officers (hereafter collectively referred to as "Officers") teamed up to serve a drug and gang-related search warrant on Jose Luis Ortega at 310 W. Sunset Avenue in Santa Maria. State Parole previously issued a Parolee-at-Large ("PAL") Warrant for Ortega's arrest. The Officers' plan was to arrest Ortega away from the residence to protect the children who they believed were present. After the arrest the Officers would conduct the search warrant at the residence.

Officers observed Ortega leaving the Sunset Avenue residence as a front-seat passenger in a red Acura Integra driven by Steven Rincon at about 8:30 a.m. When Officers conducted a traffic stop on the Acura, Ortega fled from the vehicle on foot. As Officers exited their vehicles and chased Ortega, Ortega pulled a .38 caliber handgun from his waistband and turned the weapon towards the pursuing officers. Officers, believing Ortega was going to shoot at them, opened fire. Ortega was hit by three rounds and died at the scene.

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The sole purpose of this report is to determine whether the shooting of Jose Luis Ortega was legally justified as a matter of criminal law. The evidence establishes that the Officers discharged their weapons in a lawful response to a perceived threat of deadly force. An objectively reasonable person in the same set of circumstances could deem it necessary to defend themselves and others in the same manner. Based upon these determinations, we have concluded that the Officers acted in self-defense and the shooting was a justifiable homicide.

**Information in This Report Compiled From  
Sheriff's Department Investigation 12-8735**

**Part I - STATEMENT OF FACTS**

**Officers' Statements**

**Officer 1 (shooting officer)**

Officer 1 has been a peace officer for over ten years. He and the Officers involved in the planned search warrant operation for Jose Luis Ortega attended a briefing at approximately 7:00 a.m. The target residence was 310 W. Sunset. Ortega and Crystal Marquez were listed as persons to be searched. The warrant was authorized by a superior court judge. Ortega also had a Parolee-at Large warrant issued for his arrest.

Information provided at the briefing included that Ortega was a Northwest gang member with the moniker of "Knuckles." He was believed to be an "enforcer" for the gang and was a suspect in a drive-by shooting. Evidence showed that Ortega had been given a "green light" (permission from the gang to commit a homicide) on a rival target and he was carrying a .38 caliber chrome revolver. There was also information that Ortega admired a former Northwest gang member, who went to prison for a 2009 incident where he fired a gun at Santa Maria Police officers.

Officer 1's role was to team up with another officer (Officer 2) and initiate a traffic stop on any vehicle in which Ortega may leave the residence. The operational plan was to serve the arrest warrant away from the residence because there were children present in the house and it would be safer to detain and search Ortega away from the children and then return to the residence to conduct the search. Officers 1 and 2 were both in uniform and waited in a marked patrol vehicle behind a nearby business for word from the surveillance officers that Ortega had left the house.

After receiving the information that Ortega was a passenger in a red Honda<sup>1</sup> driving away from the residence on W. Sunset, Officer 1 (passenger) and Officer 2 (driver) followed the car and initiated a traffic stop near the intersection of Bunny Avenue and Broadway. Their plan was to make a high risk/felony stop (take the persons in the car out one at a time at gunpoint, search and secure them.) The red Honda yielded to the Officers and pulled into the 7-Eleven parking lot off Bunny Avenue at Broadway.

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<sup>1</sup> The described red Honda is actually a red Acura Integra.



The right, front passenger of the Honda immediately fled on foot from the car. Officer 1 noticed the fleeing suspect fit the description of Ortega. Ortega was running awkwardly (not pumping both arms) and had his right hand buried in the pocket of his pants and appeared to be trying to pull something out of his pocket. As Ortega ran towards the back of the 7-Eleven he continued trying to pull something out of his pocket. Officer 1 yelled out to his fellow officers who were joining in the foot pursuit, "He's reaching! He's reaching!" multiple times.

As Ortega turned the corner of the business, Officer 1 saw him pull a gun out of his pocket. Officer 1 was approximately 7-12 feet behind Ortega and could clearly see him holding a chrome revolver. There were other Officers approaching from the left.

Officer 1 believed Ortega was going to open fire on the approaching Officers so he fired what he believed was one shot. He saw Ortega and the gun fall to the ground immediately. He did not hear his own round and did not hear any other rounds. He was uncertain if Ortega fired, but believed he was going to shoot at the approaching Officers.

Other Officers handcuffed Ortega and an ambulance was immediately called to the scene.

## **Officer 2**

Officer 2 attended the briefing with other Officers and was assigned to drive a patrol unit with Officer 1 as the passenger. They met with other Officers in two vans behind a nearby business awaiting word from the surveillance officer at the W. Sunset residence.

After hearing from the surveillance officer that two males and a female were leaving the W. Sunset residence in a red Honda, Officer 2 drove to follow the vehicle. He and Officer 1 saw the red Honda on Lincoln Street driving towards Bunny Avenue. The right front passenger met the description of Ortega, and Officer 2 initiated a traffic stop as the Honda approached the intersection of Broadway and Bunny Avenue. The Honda yielded to the patrol unit and turned into the 7-Eleven parking lot. Before it came to a stop, the right front door opened and Ortega fled westbound on Bunny Avenue. A large Wonder bread delivery truck obstructed Officer 2's view of the suspect as he ran. Officer 1 exited the patrol vehicle and ran westbound in pursuit of Ortega. Officer 2 turned his attention on the two occupants of the Honda. Within what seemed only "seconds" he heard a series of gunshots. Officer 2 radioed shots were fired and shortly after was joined by Officer 7 and another Officer. Officers removed Steve Rincon and Crystal Marquez (occupants of the Honda) from the vehicle and placed them in separate patrol units.

After securing Rincon and Marquez, Officer 2 walked to the location of the shooting behind 7-Eleven. He saw Ortega on the ground and a silver revolver and several shell casings on the ground near Ortega.

## **Officer 3 (shooting officer)**

Officer 3 has been a peace officer for over ten years. Officer 3 also attended the 7:00 a.m. briefing for the warrant service on Jose Luis Ortega. During the briefing, Officer 3 received information that Ortega was one of the "higher up" members of the Northwest gang. He was told Ortega was dangerous and carried a



gun. He also learned that Ortega “idolized” a Northwest gang member who had previously “shot it out with the cops.”

The plan was to contact Ortega after he left the target residence. Officer 3 was assigned back-up duties if a traffic stop was made involving Ortega. After Ortega was arrested, Officer 3 was to assist in the warrant service at 310 W. Sunset. Officer 3 was wearing a tactical vest with his law enforcement badge displayed around his neck. He also wore a black, long-sleeved shirt with his agency’s letters clearly marked in yellow down the sleeve.

Officer 3 and other members of the team met up behind a nearby business while surveillance was conducted at the residence. The team consisted of two Officers in a marked unit and five Officers in two unmarked vans. Officer 3 was traveling in the back of the van directly behind the marked unit. The Officer conducting surveillance at W. Sunset reported three subjects (two males, one female) were leaving the target residence in a red Honda. One of the males matched Ortega’s description.

Officer 3’s van followed the marked unit as it made a traffic stop on the Honda. Officer 3 jumped out of the van and hid behind a large RV parked in the 7-Eleven parking lot. When the Honda pulled into the 7-Eleven parking lot Ortega fled out of the Honda and began running in Officer 3’s direction. Officer 3 had his duty firearm out and pointed it at the suspect, while yelling, “Get on the ground!” Ortega did not obey his orders and changed his direction and fled towards the corner of the 7-Eleven where he jumped an approximately 3’ high dividing wall. Officer 3 then saw Ortega shove his hands into his waistband area. He heard another officer yelling, “He’s reaching!” Officer 3 continued yelling, “Get on the ground!” Ortega pulled a gray and black revolver from his waistband area and twisted to point the gun towards Officer 3. Officer 3 thought, “I can’t believe he’s making me do this,” and fired two rounds in rapid succession at Ortega. He heard one more round immediately after he fired but did not believe Ortega fired his gun.

Officer 3 tripped and fell to the ground as Ortega also fell to the ground. When he got up he saw Ortega’s gun on the ground near Ortega. Ortega was clearly injured and someone called an ambulance.

#### **Officer 4**

Officer 4 described the 7:00 a.m. briefing consistent with other Officers’ accounts.

Officer 4 drove the van that contained Officer 3. He was following directly behind the marked unit that conducted the traffic stop on the Honda. Officer 4 believed there was some hesitation to stop by the driver of the Honda, and this made him suspect there was going to be a “foot bail” (subject running) from the car. Officer 4 stopped the van on Bunny Avenue to allow Officers 3 and 6 in the van to exit. He saw the Honda pull out of sight into the 7-Eleven parking lot. Shortly thereafter, he saw Officer 1 chasing Ortega westbound. Believing Officer 2 driving the patrol car was now alone with the other two persons in the Honda, he sped up to provide backup. As Ortega ran by, Officer 4 saw him reaching into his pants with one hand and holding his pants up with the other. Officer 4 heard who he believed was Officer 3 yelling, “He’s reaching!” Officer 4 exited the van and moved to the passenger side of the Honda to prevent another occupant from fleeing on foot. Officer 4 then heard at least two gun shots. He ran over to where he heard the shots and saw Officer 3 on the ground. At first he thought Officer 3 may have been shot. Officer 3 was still pointing his gun at Ortega so he moved in to help cover Ortega. He heard



someone say, "He's hit" (referring to Ortega). He then moved in and assisted in handcuffing Ortega. He saw a silver revolver in the dirt next to Ortega. Officer 4 retrieved a first aid kit and tried to stop Ortega's bleeding until medics arrived.

### **Officer 5**

Officer 5 described the 7:00 a.m. briefing consistent with the other Officers' accounts.

Officer 5 drove the second of the two unmarked vans. Once they received information Ortega was in a red Honda, Officer 5 followed van one which was following behind the marked unit. Officer 5 saw the marked unit initiate a traffic stop on the red Honda as it pulled into the 7-Eleven parking lot off Bunny Avenue.

Officer 5 saw Ortega, who was wearing a Dallas Cowboys' football jersey, jump from the front passenger door of the red car as it was still in motion. Officer 5 turned southbound into the rear of the 7-Eleven to contain Ortega. Ortega then changed direction and began running right towards him.

Officer 5 saw Officer 3 chasing Ortega. Officer 5 shifted into park and got out of the van as he heard Officer 3 yelling, "Get down on the ground! Get down on the ground!" He then heard someone yelling, "He's reaching! He's reaching!"

Officer 5 saw Ortega pull out a silver handgun as he was jumping over an approximately three-foot high wall. He then heard what he believed was one gun shot and saw Ortega fall to the ground. Officer 5 drew his weapon and moved in to cover Ortega before he was handcuffed. As he moved in he realized Ortega had been hit. Officer 5 saw a Taser cartridge had been deployed. He was not certain who deployed the Taser.

### **Officer 6**

Officer 6 described the 7:00 a.m. briefing consistent with other Officers' accounts.

Officer 6 was a passenger in van one. After staging behind a business near the W. Sunset residence, they received information from surveillance that Ortega was a passenger in a red Honda and was wearing a Cowboy's jersey. The car, occupied by a male driver and a third female passenger, left the target residence.

Van one followed the marked unit as it followed the Honda. Officer 6 saw the marked unit initiate a traffic stop on the Honda. The car was on Bunny Avenue and slowed to pull into the 7-Eleven parking lot at Broadway. He saw the passenger door open just as they pulled aside a large truck parked along the curb.

Officer 6, armed with his AR-15 (long rifle), and Officer 3, armed with his handgun, jumped out of the van and ran to the rear of the truck to cut off any westbound escape. As Officer 6 approached the sidewalk he saw Ortega headed towards him. He saw Ortega fumbling with something in his waistband area. He and Officer 3 began yelling at Ortega, "Get on the ground! Stop running!" Officer 6 pointed his AR-15 at the suspect who now had a silver revolver in his right hand. Ortega brought the revolver up in a



drawing type motion towards Officers 5 and 7 who were approaching Ortega from the rear of 7-Eleven. Officer 6 prepared to fire at Ortega but refrained from shooting because of pedestrians and cars in his backdrop. Officer 6 reported feeling “helpless” because he could not shoot as Ortega was drawing the gun towards the other Officers. He heard screaming and then two or three shots. He felt debris come up from the ground and hit his face. He saw Ortega get hit by a round and fall to the ground. At the same time he saw Officer 3 fall to the ground, and he believed Officer 3 had been shot. Officer 6 went to Officer 3 while the other Officers handcuffed Ortega. Officer 6 quickly discovered Officer 3 had not been shot. He saw Ortega bleeding from the abdomen area and Officer 4 applied pressure to Ortega’s wounds until medics arrived.

### **Officer 7**

Officer 7 described the 7:00 a.m. briefing consistent with other Officers’ accounts.

Officer 7 was a passenger in van two driven by Officer 5. Once they received information that Ortega left the W. Sunset residence in a red Honda, they followed van one.

As the Honda drove eastbound on Bunny Avenue from Lincoln, the marked unit initiated a traffic stop. As the red car turned into the 7-Eleven parking lot, Officer 7 saw a passenger flee from the vehicle heading westbound on foot. Officer 5 pulled the van into an alley that runs behind the 7-Eleven in an attempt to cut off the suspect. Officer 7 exited the van first and moved into a position to cut off Ortega. Officer 7 pulled his Taser and moved towards the suspect. He heard someone yelling, “He’s reaching! He’s reaching!” Officer 7 discharged his Taser from a distance of approximately 15 feet. Simultaneously, Officer 7 heard two gunshots in rapid succession. He saw both the suspect and Officer 3 fall to the ground. As Ortega fell, he saw a pistol fall away from Ortega and hit the ground. He did not see the gun until Ortega was falling. He heard Officer 3 still giving commands to the suspect. He deactivated his Taser and dropped the cartridge so no one would be inadvertently tased when they handcuffed Ortega.

Officer 7 then realized Officer 2 was still with the remaining two persons in the Honda. He then assisted in removing and securing the two occupants who were searched, handcuffed, and placed into patrol vehicles.

When Officer 7 returned to where the suspect fell, he found a spent bullet he believed was a .45 caliber. He noted its location so it could be marked. Officer 7 said he believed Officer 3 likely saved his life as he had only his Taser out and did not realize the suspect was pulling a gun until it fell to the ground.

### **Civilian Witnesses**

#### **Witness 1 - Steve Rincon (driver of the red Acura)**

Rincon has known Crystal Marquez for about twenty years and Jose Luis Ortega for about one year.

Rincon woke up and left his house at about 5:25 a.m. to pick up his brother and take him to work. After dropping off his brother at approximately 6:00 a.m., he drove to Crystal Marquez’s house. He planned on



taking her to court at about 8:00 a.m. Marquez wanted Rincon to burn a music CD for her while they waited to leave for court, so he went back to his house to retrieve his laptop. When he returned to Marquez's house, Ortega was present. Ortega stepped away to receive a phone call and when he rejoined Marquez and Rincon, Ortega said his cell phone battery died.

At about 8:00 a.m., the three left in Rincon's Acura with Ortega in the front passenger seat, Marquez in the back, and Rincon driving. As he drove eastbound on Bunny Avenue, Rincon saw a black and white patrol vehicle turn its lights on to pull him over. He did not know why he was being stopped and neither Ortega, nor Marquez, said anything. Rincon pulled into the 7-Eleven parking lot to get off the street for the traffic stop. As he slowed to pull into the lot, Ortega suddenly "ran" out of the vehicle. He saw Ortega run towards the rear of the 7-Eleven with his hands up. Rincon heard two distinctive "pop, pop" sounds, which he believed came from a Taser. He and Marquez were then ordered out of the car by police at gunpoint.

Rincon reported he did not know why Ortega ran from the car, but assumed Ortega was "wanted." He never saw Ortega with a gun, but said Ortega was wearing a Cowboy's jersey that could have concealed a weapon.

Rincon claimed he was previously a Northwest gang member and believes Ortega is an "active" Northwest gang member.<sup>2</sup>

## **Witness 2 - Crystal Marquez**

Marquez awoke between 6:00 a.m. and 7:00 a.m. and had coffee with a friend at her home. She then called Steven Rincon and asked him if he wanted to come over for coffee. He arrived approximately 30 minutes later, and she downloaded some music from his laptop. At about 8:00 a.m., Jose Luis Ortega arrived, uninvited, at Marquez' home. Marquez has known Ortega since he was 16 years old, and he previously dated Marquez's sister. Marquez wanted to go to court to support a friend who had a case in Department 9 in Santa Maria at 8:30 a.m. Rincon drove because her vehicle had recently been involved in a collision. Marquez sat in the back seat and Ortega sat in the front passenger seat.

Marquez was lighting a cigarette and putting a hairband on when suddenly Ortega opened the door and ran from the car. At first she did not realize the police were behind them. She believed the vehicle was still in motion when Ortega left the car. She heard yelling, possibly the word, "Stop." She and Rincon were ordered out of the vehicle by police. She did not hear anything else.

Marquez said Ortega recently got a tattoo on his head and she believes he was a gang member. Marquez said she had not seen Ortega with a gun and admitted Ortega used marijuana, but described him as a "sweet kid." Although Marquez claimed she did not talk to Ortega often, on further questioning by detectives, she admitted Ortega visits her house five days a week and sometimes "stayed the night when her kids weren't there."

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<sup>2</sup> Rincon was arrested and convicted of a violation of Health and Safety Code section 11550 for using or being under the influence of methamphetamine on June 28, 2012.



### **Witness 3 - Claudia V.<sup>3</sup>**

Ms. "V" was on her way to work and had her two children with her when she stopped at the 7-Eleven on Broadway and Bunny to get coffee. She saw a patrol car making a traffic stop on a red car and both vehicles were turning into the 7-Eleven parking lot. As the red car stopped, she saw the front passenger, a Hispanic male, run from the car. The male ran by her car and then ran to the rear of the 7-Eleven. Ms. V said she saw "three undercover officers" on the backside of the 7-Eleven. As the male ran to the rear of the 7-Eleven she lost sight of him behind a wall that blocked her vision. She saw the officers and heard shots but was unable to see the suspect. She believed she heard three shots. She took her children into the 7-Eleven for safety as she saw officers pointing guns towards the red car. Ms. V said she heard no verbal exchange between the officers and the suspect prior to hearing the shots.

### **Witness 4 - Krystal A.**

Ms. "A" is a friend of Ortega's girlfriend, Luciela C. Ms. "A" knew Ortega had been going through "tough times" lately, jumping from house to house, and living on the streets. She described him as a young, "good" kid with potential, but he was making some stupid decisions. She said Ortega recently got more tattoos and was not in a good frame of mind. He mentioned to her previously that he did not want to go back to jail.

### **Witness 5 - Donald L.**

Mr. "L" was staying in Room 24 at the Laura Lodge on Broadway near Bunny Avenue. He heard yelling outside by Bunny Street. He looked out of the window and saw three Officers wearing tactical gear yelling things like, "On the ground! On the ground!" Almost simultaneously, he heard three shots and saw a subject in a white shirt and black shorts fall to the ground. He then saw Officers approach the subject and handcuff him. He was unable to see which Officers fired. Additionally, he could not speculate as to what the other Officers saw from their vantage points

### **Autopsy**

The autopsy on Jose Luis Ortega was performed by Dr. Jon Smith at the Santa Barbara County Sheriff Coroner's Bureau in Santa Barbara on July 3, 2012.

Ortega had wounds consistent with three separate gunshot tracks in the center mass (one chest, two abdomen). No bullets or fragments were recovered and it appeared all three wounds were through and through. The cause of death was "multiple gunshot wounds." Toxicology results showed the presence of amphetamine, methamphetamine, THC, methadone and opiates in the decedent's blood. A gunshot residue (GSR) test showed the presence of GSR on Ortega's hands.

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<sup>3</sup> The identities of the uninvolved civilian witnesses have been withheld to protect their privacy.



### **Evidence at the Scene**

Two .40 caliber casings were located near the body of Ortega which is consistent with Officer 3's statement that he fired two rounds from his .40 caliber handgun in rapid succession. One .45 caliber casing was recovered near the body consistent with Officer 1's statement that he believed he fired one round from his .45 caliber handgun. A loaded, silver, Meriden brand, .38 caliber revolver was found approximately 10-12 feet from Ortega's body. It later was processed and found to have four live cartridges and one casing in it. The casing was in the top position. The .38 caliber rounds were Smith and Wesson.

An expended bullet (copper jacketed, hollow point with fibers in its nose) was found on the ground near Ortega's body which is consistent with the autopsy showing through and through rounds. An apparent bullet hole was located at approximately eight feet high on the side of the 7-Eleven near the shooting. An attempt to recover the bullet through the stucco was unsuccessful. A discharged Taser cartridge was found approximately 10-12 feet from Ortega's body. The wires from the Taser cartridge led to the darts under Ortega's body.

### **Execution of Search Warrant at 310 W. Sunset, Santa Maria, California**

Officers executing the search warrant at the residence located methamphetamine smoking pipes, drug packaging tear-offs (plastic pieces used to package methamphetamine), a notebook and pad with gang indicia writings, and a "Hoppe's" firearm cleaning kit.

### **Jose Luis Ortega's Criminal Convictions**

In April 2010, Ortega was convicted of 273.5 PC, Felony Domestic Violence. In December 2010, Ortega was convicted of 186.22 PC, Participation In a Criminal Street Gang, a felony. He was sentenced to prison on both cases in December 2010. He was on parole at the time of the incident.

## **Part II – LEGAL ANALYSIS AND CONCLUSION**

### **Applicable Law**

Homicide is the killing of one human being by another, either lawfully or unlawfully. Homicide includes murder and manslaughter, which are unlawful, and the acts of excusable and justifiable homicide, which are lawful.

The shooting of another person in self-defense or in the defense of others is justifiable and not unlawful. Penal Code section 196(2) defines justifiable homicide by public officers. "*Homicide is justifiable when committed by public officers and those acting by their command in their aid and assistance when necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty.*"



Under California law anyone, including a police officer, who is threatened with an attack that justifies the use of self-defense need not retreat. The person attacked may stand his ground and defend himself, if necessary, by deadly force, even if he might have more easily gained safety by flight. See *People v. Newcomer* (1897) 118 Cal. 263, 273; *People v. Dawson* (1948) 88 Cal.App.2d 85, 95.

A police officer may use deadly force where the circumstances create a reasonable fear of death or serious bodily injury in the mind of the officer. *Graham v. Connor* (1989) 490 U.S. 386; *Martinez v. County of Los Angeles* (1996) 47 Cal.App. 4<sup>th</sup> 334. In *Graham v. Connor*, the United States Supreme Court held that the reasonableness of the force used “requires careful attention to the facts and circumstances” of the particular incident “including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.” (*Id.*, at 396.) Further, the Court stated, “[t]he ‘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.” (*Id.*, at 397.) Moreover, “[t]he 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.” (*Id.*, at 397-398.)

Under *Graham*, we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. “We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes ‘reasonable’ action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure.” *Smith v. Freland* (6<sup>th</sup> Cir. 1992) 954 F.2d 343, 347. *Graham*’s definition of reasonableness has been described as “comparatively generous to police in cases where potential danger, emergency conditions or other exigent circumstances are present” (*Roy v. Inhabitants of the City of Lewiston* (1<sup>st</sup> Cir. 1994) 42 F.3d 691) and also as giving police “...a fairly wide zone of protection in close cases....” *Martinez v. County of Los Angeles* (1996) 47 Cal.App.4<sup>th</sup> 334.

### Legal Analysis

The evidence indicates that on June 28, 2012, there was a Parolee-at-Large warrant issued for Ortega’s arrest, and Santa Maria Police, State Parole and Santa Barbara Sheriff’s Deputies obtained a search warrant for the residence at 310 West Sunset Avenue where Ortega was believed to be staying. Jose Luis Ortega armed himself with a .38 caliber handgun that morning, and concealed the gun in either his pocket or waistband when he left the residence at 310 West Sunset Avenue. When Officers stopped the vehicle in which Ortega was a passenger, he immediately fled the vehicle on foot. Ortega, in an attempt to avoid arrest, drew a gun from his waistband area and pointed the weapon toward pursuing Officers. This is a felony violation of PC 245(d)(1), Assault With a Firearm On a Police Officer. Fearing for their own safety and the safety of the other pursuing Officers, Officers fired a total of three rounds at Ortega. All three rounds hit Ortega and he died at the scene.



### **Conclusion**

Based on the investigation by the Santa Barbara County Sheriff's Office, applying the law as set forth in PC 196(2) and the cases cited *supra* in this report, Officers were justified in using deadly force and, therefore, this shooting was a justifiable homicide.