

**OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF VENTURA
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**REPORT ON THE FATAL SHOOTING
OF ADRIAN CANLEY
BY VENTURA COUNTY SHERIFF'S DEPUTY SHANE MATTHEWS
ON NOVEMBER 14, 2006**

**GREGORY D. TOTTEN
District Attorney**

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INTRODUCTION

On November 14, 2006 at approximately 6:20 p.m., Ventura County Sheriff's Senior Deputy Shane Matthews was conducting an interview regarding a theft from a store. The interview took place at 2222 Los Feliz Drive in the city of Thousand Oaks. While he was interviewing witness Gabriel Cimber, Matthews was approached by Adrian Canley (DOB 4/1/81). Canley inquired whether Matthews was a police officer and then made several statements indicating that the police would not be able to catch him. Matthews attempted to contact Canley; however, Canley ran into the parking lot and entered a pickup truck. Matthews saw Canley reaching into his waist band several times as he ran away. Matthews pursued Canley into the parking lot and ordered him to stop several times. Canley then drove his pickup truck directly at Matthews attempting to hit him. Matthews shot his service weapon at Canley's truck several times while yelling for him to stop. Canley was struck once in the chest and died later that night at a local hospital. Paramedics called to the scene found a loaded .45 caliber handgun in Canley's pants when they cut his clothes off to treat him.

The District Attorney's Office has a 24-hour on-call officer-involved shooting team available to all Ventura County law enforcement agencies to assist in the investigation of officer-involved shootings. The Sheriff's Department immediately notified the District Attorney's Office. Chief Assistant District Attorney James Ellison, Senior Deputy District Attorney Stacy Ratner (who authored this report), District Attorney Investigator Dan Thompson, and District Attorney Investigator Lance Steaman all responded to the shooting scene and consulted with the investigating officers.

The Ventura County Sheriff's Department conducted a detailed investigation of the shooting, which included: interviewing witnesses, collecting physical evidence, photographing the area of the shooting, and conducting a walk-thru interview of the shooting with Deputy Shane Matthews. The Sheriff's Department's investigation reports were then submitted to the District Attorney's Office for a determination of whether the shooting of Adrian Canley was justified, and if not, whether criminal charges should be filed. The scope of the District Attorney's review was limited to those issues.

The District Attorney's review included: studying over 800 pages of reports and documents, detailing interviews of police and civilian witnesses, reviewing diagrams, photographs, tape-recorded interviews, records of radio transmissions, and examining the scene of the shooting.

After a complete review of all of the evidence, it is the conclusion of the District Attorney that Deputy Shane Matthews acted lawfully when he shot at Adrian Canley, and Canley's resulting death was a justifiable homicide.

STATEMENT OF FACTS

The District Attorney's review of the facts indicates the following:

Adrian Canley's confrontation with Deputy Shane Matthews

On November 14, 2006, Deputy Shane Matthews was working as a plain-clothes property crimes detective. He went to the apartments at 2222 Los Feliz Drive to interview a witness. During his interview with witness Gabriel Cimber, he was approached by Adrian Canley. Canley initiated a confrontation with Deputy Matthews. As the confrontation unfolded, Canley fled into a white Ford pickup and drove towards Matthews. Matthews then fired several shots from his service weapon at Canley. He struck Canley one time in the upper chest. Canley was administered first aid at the scene by paramedics. As the paramedics were treating him, they found a fully loaded .45 caliber handgun in his pants. Canley was transported to the Los Robles Regional Medical Center where he died from his wounds.

Statement of Deputy Shane Matthews

Deputy Shane Matthews told investigators that he had gone to the apartment complex at 2222 Los Feliz Drive a few minutes before 5:00 p.m. on November 14, 2006. He was attempting to contact a witness in connection with a theft. Matthews was dressed in plain clothes which included a blue button-front shirt, tie, slacks and a belt. Attached to his belt was his badge, gun/holster and handcuffs in the back. Around his neck on a lanyard was his department-issued identification card.

Matthews contacted witness Gabriel Cimber and introduced himself. Matthews asked Cimber if they could talk and then he turned on his digital recorder and began the interview, first standing in the parking lot and then sitting on stairs in the courtyard. Matthews said that they talked for approximately 30 minutes.

Toward the end of the conversation, a male, later identified as Adrian Canley (DOB 4/1/81), approached Matthews from behind. Matthews said that Canley stood about 10 feet away. Canley said something to the effect, "I know you guys are the fucking Sheriff and you're not going to take me." Matthews noticed that Canley was pacing back and forth and moving his hands in an animated manner. According to Matthews, Canley was "mad-dogging" him. Matthews said that his initial impression was that Canley was under the influence of drugs and was possibly a gang member. Matthews based these observations on Canley's behavior and appearance of wearing baggy clothes and having a shaved head. Matthews turned his back on Canley and looked at Cimber, who shrugged his shoulders as if to say that he did not know Canley.

After this initial confrontation, Canley walked away down the sidewalk out of Matthews' view. Suddenly Canley walked back over to Matthews and made another comment. He said something to the effect, "Fucking Sheriff ain't gonna take me. You're not going to take me alive." Matthews was done with his interview of Cimber at this time. He felt that Canley must be under the influence of drugs based on his behavior. He then directed his attention to Canley who was about 15 feet in front of him. He was unsure of what Canley's intentions were, and he did not know why Canley was confronting him. Matthews intended to contact Canley to find out what

his problem was, but when he stepped off of the cement landing in Canley's direction, Canley took off running northbound on the sidewalk along the edge of the parking lot.

Matthews chased after Canley and he noticed that Canley was crouching over and reaching towards his waistband with both hands. Based upon the statements that Canley had made to him about not being taken alive and his erratic behavior, Matthews believed that Canley was reaching for a weapon in his waistband as he ran. Matthews then drew his firearm with his left hand and threw his interview notebook to the ground. Matthews was yelling at Canley to stop. He was yelling, "Sheriff's Department, stop!" Matthews said that he wanted to be prepared in case Canley were to turn around and point a weapon at him.

Canley jumped into a white Ford pickup truck parked in the third parking space south of a planter at the entrance of the parking lot. The pickup was parked nose in. Matthews ran up to the door of the pickup with his gun out. He shouted "Sheriff's Department, stop, get out of the truck, get out of the truck, and show me your hands." The driver's side window was partially open and Matthews tried to grab the window but Canley kept hitting his hands off of the window. Matthews tried unsuccessfully to break the window twice by hitting it with the barrel of his gun.

Canley started the engine of the truck and began to back up. Matthews did not want to allow Canley to drive away. He was concerned that he might be under the influence of drugs or violent. When Matthews could not break the window, he grabbed the door handle to open the door. Suddenly the truck backed out and he was pulled along with the truck. Canley turned the truck to face the exit of the parking lot. At this point, Matthews found himself standing directly in front

of the truck on the driver's side. Matthews continued to yell at Canley the entire time. He noticed that Canley was yelling at him. He heard Canley say "fuck you" and other things that Matthews could not understand. Canley was acting very angrily towards Matthews. Matthews started backpeddling to get away from the truck. Canley started revving the engine and driving forward towards Matthews.

Matthews fired two rounds at the front of the truck. They struck the front grill and bumper area. The truck continued to drive towards Matthews and he could hear the engine revving and the tires squealing. Matthews yelled "Stop! Stop!" and then he shot three more times at the windshield area of the truck. Matthews was moving backwards and away from the truck, but it was advancing on him as he fired. Matthews was in fear for his life, believing that Canley was going to run him over. Matthews then heard Canley yelling, "You shot me. I'm hit." Then the truck slowly rolled forward and stopped against the north curb of the parking area.

Matthews ran up to the back of the truck and yelled for Canley not to move. He also instructed Canley to show his hands. Matthews yelled to Canley, "Who are you? Why did you do this?" Because he did not have his radio with him, he yelled to Cimber to call 911. Matthews was crouching down behind the tailgate of the pickup truck. He began to use his Nextel phone to find backup. He finally reached Deputy Paul Ferruzza and gave him his location. Canley was moaning and yelling, "You shot me. I'm hit." Matthews went to his vehicle and retrieved a flashlight. He shone the light to the interior of the truck. Canley had stopped talking and was now moaning. Matthews continued to tell Canley to show his hands and then he approached him. He saw that Canley was slouched down and there was blood on the front of his shirt. Given

Canley's condition, Matthews no longer believed that Canley was a threat to him. Matthews has been trained as an EMT, and he has seen many critical patients in the past. When he looked at Canley he thought Canley looked like he was dying.

Matthews holstered his weapon and pulled Canley out of the truck and onto the ground. He quickly patted him down and found a lighter in his front right pocket, a pair of gloves and a crack pipe in his left pocket and a cell phone in his sweatshirt pocket. He opened Canley's airway. He could hear sirens in the distance coming in his direction. He told Canley to keep breathing and not to move. Matthews ran over to the driveway to notify the arriving officers of his location. He saw an unknown Hispanic male with long hair and no shirt run up to the area. He asked the male if he knew Canley. The male responded that he did not. He instructed the male to remain at the scene with Cimber.

Deputies Natoli and Hall were the first to arrive and Matthews advised them that he needed a first aid kit and gloves. He advised the other deputies to cut Canley's sweatshirt off. Once the sweatshirt was off, Matthews could see a gunshot wound to the upper right portion of Canley's chest. Matthews noticed that Canley's eyes were starting to roll back and his breathing was shallow. He was unresponsive with a faint carotid pulse. Matthews got out a pocket mask and gave Canley two or three breaths to assist his breathing. At this point, Senior Deputy Berg suggested that Berg take over the medical care of Canley until paramedics arrived.

Matthews walked away from Canley and began to advise other deputies on where the crime scene tape should be placed. Approximately 10 minutes later as he was standing by with Deputy

Ferruzza who had been assigned to stay with him, he noticed that his digital audio recorder was on and had been on during the entire incident. He looked at the recorder and saw that it had been running for 50-plus minutes. He turned off the recorder and gave it to Deputy Ferruzza.

Deputy Matthews' Digital Audio Recorder

Deputy Matthews had a digital audio recorder in his pocket during the entire confrontation and shooting of Adrian Canley. Sergeant Mike Powers of the Ventura County Sheriff's Department took possession of the recorder on the evening of November 14, 2006. He found that there was a total of 50 minutes and 45 seconds of recorded information on the recorder. The first 31 minutes and 8 seconds consists of the interview with Cimber about a theft at a GNC Nutrition Store. At 30:28 the voice of Canley can be heard on the recording. He says, "You fuckers are sheriffs, huh? You guys are sheriffs." Then he says, "(inaudible) going to arrest me, or what?" Matthews asks Canley what he is talking about. Cimber then asks Matthews who Canley is and indicates that he does not know him.

At 31:10, the sound of running footsteps and rustling can be heard on the recorder. Matthews begins repeating the command "Stop" six times. His voice gets louder and more affirmative as the commands continue. At 31:20, the sound of a car door slamming shut and the screeching of tires is heard. Detective Matthews yells "Stop" eight more times. His voice grows more emphatic and louder with each command. At 31:28, two shots are fired in rapid succession. A loud hissing sound, consistent with the liquid coolant escaping from the radiator of the truck after it was struck by Matthews' bullets, can be heard. Detective Matthews yells "Stop" again, and then three more shots are fired in rapid succession. Detective Matthews yells "Stop" and Canley can be

heard yelling something inaudible. Matthews yells “Stop” again and Canley is heard saying, “Oh, I’m hit man.” Matthews continues to yell stop and Canley continues to say he has been hit. Matthews then tells Cimber to call 911. Matthews tells Canley to get out of the truck. Canley says that he cannot because he has been shot. He tells Matthews that he has been hit in the chest. Matthews can be heard asking for backup on his Nextel. Backup and medical arrived shortly thereafter and Matthews is told to move away from the scene. The audio recorder is turned off when Matthews notifies Deputy Ferruzza of the existence of the recorder.

Statement of Gabriel Joseph Cimber

Cimber said that Detective Matthews came to his apartment to talk to him about thefts that had occurred at GNC Nutrition. He said that while they were talking, Canley approached them and demanded to know if they were the Sheriff. Neither Cimber nor Matthews responded to him. Canley then stated, “You’ll never catch me, I won’t go that easy.” Cimber thought that Canley was trying to instigate something with Matthews. He thought it was strange that Canley stayed there even though Matthews ignored him.

He saw Canley walk towards the parking lot and then stop. Matthews and Cimber were done with their conversation and they also started to walk towards the parking lot. As they got closer to him, Canley started running towards his truck. He heard Matthews yelling. “Stop, stop, stop.” He saw Matthews pounding on the window of the truck with his fist. Canley was inside of this truck and suddenly started backing out. He saw Matthews pull his gun and continue to yell, “Stop, stop, stop.” When the truck backed out of the parking space, he saw Matthews standing

directly in front of it near the left front tire. He saw Matthews pointing his gun at the suspect and yelling, "Stop, stop, stop."

As the truck pulled forward towards Matthews, Cimber saw Matthews fire a shot at the tire. Canley continued to drive forward at the same time. Cimber heard the engine revving and the tires squealing. He said that the truck was trying to speed up. He thought that Canley was trying to escape from the parking lot. He saw Matthews step to the side and shoot two more shots at the truck. Cimber thought the truck looked like it was driving at Matthews before the first shot and possibly before the second shots. He believed that Matthews was already standing on the corner when he shot at the truck the second time. When Cimber made these observations, he was still standing on the sidewalk, closer to the apartments than to the truck.

After the second round of shots, he saw the truck roll to a stop at the curb. He saw Matthews duck down and move to the driver's side. He heard Matthews yell at Canley, "Get out of the car, get out of the car." Canley responded, "I'm hit, I'm hit." He saw Matthews take Canley out of the truck and begin to administer first aid. Cimber said that he called 911 when Canley was backing the truck up. He estimated that Matthews had fired three shots during the entire incident. Cimber did not see any other civilians outside before or right after the shooting. He was calling 911 and watching to see what was happening with Matthews.

Statements of Neighbors

Sheriff investigators canvassed the neighborhood to locate witnesses who might have seen or heard any part of the confrontation involving Canley. Although none of the neighbors apparently witnessed the shooting, several heard the gunshots.

Several neighbors said that they recognized Canley's truck and thought that it was associated with their neighbor, Jimmy Martinez. The apartment manager, Edger Dejesus, told Detective Harris that after he heard the shots fired he walked outside. He saw Martinez and told him that the truck involved in the shooting looked just like his friend's truck. Martinez responded, "Oh shit, it might be." He saw Martinez run down to the crime scene and then run back to his apartment. He estimated that Martinez was out at the crime scene for less than a minute.

Statement of Jimmy Martinez

Martinez was interviewed by Detective Harris. He lives in apartment 214 with his parents. He matched the description of the unknown Hispanic male with long hair and no shirt that Matthews had indicated approached him while he was rendering aid to Canley. Martinez was uncooperative with Detective Harris and did not want to get involved. Initially, Martinez said he had heard the gunshots but he did not go out to the scene. After more questioning, he admitted that he ran out to the scene. He said, "I came down there and asked the guy what the hell was going on." He said the guy at the truck told him to step away, so he left and went back into his apartment. Martinez denied knowing Canley. He said he had a friend with a truck like Canley's but he refused to acknowledge that he knew Canley.

Statement of Nicholas Cleary

Nicholas Cleary is a firefighter/paramedic stationed at Station 31 in the city of Thousand Oaks. He responded to a call of a gunshot victim at 2222 Los Feliz Drive. When he got to the scene, he saw Canley lying prone on his back. He saw blood coming out of Canley's right chest area. He noticed that Canley was only taking two to four breaths per minute. He prepared to intubate Canley and he instructed Senior Deputy Berg to cut Canley's shirt off. Cleary intubated Canley, and then assisted other emergency personnel. He noticed that no one had cut Canley's pants off of him to check for other injuries. With a pair of sheers, he cut Canley's pants at the seams and then began to rip them off. He did not completely cut Canley's pants off. He checked Canley's legs for injuries and he did not see any. As Canley's pants were being pulled away from his body, Cleary saw a black handgun leaning next to Canley's crotch and right thigh. He saw that the gun was between Canley's legs and closer to his right thigh. He notified Senior Deputy Berg of the gun. Canley was then loaded onto a backboard so he could be transported to the hospital.

Statement of Heather O'Brien

Heather O'Brien is a paramedic with American Medical Response. She and her partner, Christopher Simpson, were dispatched to 2222 Los Feliz Drive reference a gunshot victim. When they got to the scene, she saw Canley lying prone in the parking lot next to a truck. He was already being treated by Ventura County Fire. She saw that Canley had a gunshot wound above his right clavicle. He was unconscious and unresponsive. O'Brien began treating Canley and inserted an IV into his left arm. She noticed that Canley's pants had not been completely cut off of him. She then cut his pants and underwear at the waistband in order to check for other

wounds. After cutting his clothing, O'Brien pulled his pants out from under him. As she did this, she saw a black handgun lying on his pants at the rear waistline area. The placement of the gun was consistent with it having been hidden in his waistband behind his back. She yelled out that there was a gun and a male deputy walked over and stood next to the gun. She described the gun as a large black semi-automatic handgun, possibly a 9mm with a five-inch barrel in the ready position for firing.

Statement of Scott Wirz

Scott Wirz is a firefighter/emergency medical technician. He is employed by the Ventura County Fire Department. He was working at Station 31 in the city of Thousand Oaks on November 14, 2006. He was dispatched to the scene at 2222 Los Feliz Drive reference a gunshot victim. When he got to the scene he saw Canley lying prone on the ground. Two other firefighters were already working on him. He began supplying oxygen to Canley while the paramedics were preparing to insert IVs into him. He saw others cutting Canley's pants off of him. As the emergency personnel pulled his pants out from underneath him, a gun appeared in the pants. He described the gun as black. He said it looked like a semi-automatic Glock, possibly .40 caliber. He said the gun was in a firing position. He described this as the slide not locked back. He did not know if the hammer on the gun was cocked. Canley's pants and gun were slid away from him so that he could be placed onto a backboard. He saw a deputy sheriff come over and stand by the gun to retrieve it once they were done moving Canley.

Fireman/Engineer Mark Carillo, Fire Captain Joseph "Chad" Cook, Fire Control Worker Mike Fuller, Emergency Medical Technician Christopher Simpson, Firefighter/Paramedic Jeffrey

Golden, Fire Cadet Weston Hansen and Fire Cadet David Pasztor were all interviewed and they corroborated what the others said about the condition of Canley and the finding of the gun.

Other Information

Adrian Canley had been with his mother, Magdalena Canley, in Santa Paula in the afternoon before the shooting. On November 14, 2006, at approximately 5:37 p.m., Magdalena Canley called Santa Paula Police Department and reported that her son had just left her home with a handgun in the waistband of his pants and she feared that he might be suicidal. She said that he was acting paranoid and upset. She said that he had been acting strange for the last three weeks, complaining that there were people following him. He told her that the police were following him around the county. She described Adrian as possibly schizophrenic. She had urged him to get some mental health counseling, but he believed that his delusions were real. He became angry at her for suggesting that he needed help. After the two of them argued, Canley left the house. Before he left he told her, "I know how to end it all," and that concerned her enough to call the police to report it.

She said that he was upset about an incident that had happened on November 12 at the residence of his aunt, Carmen Ramirez, in Ventura where she and Canley had been living. Apparently he had been involved in a physical confrontation with a young man who had double-parked his car in the parking lot near Canley's vehicle. He confronted the young man and instigated a fight with him. The police were called but the man refused to press charges. After that confrontation Canley and his mother moved out of the residence. According to Ramirez, Canley had been

acting strangely in the weeks before the confrontation. He was highly paranoid and believed that he was being followed.

On November 14, 2006, after Canley's mother had called the police, Ventura Police Department officers were dispatched to Ramirez's residence to warn her of a possible threat to her safety due to Canley's behavior.

A review of Adrian Canley's criminal record indicates that he was arrested several times as a juvenile and had petitions sustained for possession of burglary tools and assault with a deadly weapon. As an adult, he was convicted of carrying a loaded firearm, being under the influence of a controlled substance, and disturbing the peace.

Physical Evidence

Detectives at the scene found a pair of acceleration scuff marks in the third parking stall at the area Matthews had indicated that Canley's truck had been parked. The scuff marks appeared to be fresh and were approximately three feet in length. The width of the scuff marks matched the width of the exterior wheelbase of Canley's truck.

Detectives at the scene of the shooting noted four expended .40 caliber casings lying on the parking lot near the entrance/exit to the parking lot. A fifth casing was found lying in the raised flowerbed that borders the southern most portion of the entrance/exit to the parking area. All of the casings were within three feet of each other.

They saw a white Ford F-150 pickup truck, later determined to be registered to Canley, resting against the north curb of the parking area.



Canley's truck where it came to rest



Photo markers indicating spent shell casings

There was a field of automotive fluid beginning at the first parking stall near the entrance/exit and leading to the underside of the engine compartment of the Ford pickup truck. One of the bullet casings was found near the beginning of the fluid field.



Fluid field and its relation to shell casings. Note: patrol car was Not present at the time of the shooting



Vantage point from parking stall that Canley was in to place that Matthews was standing when he shot and area where Canley's truck came to rest

Ventura County Assistant Medical Examiner Dr. Janice Frank performed an autopsy on Adrian Canley on November 15, 2006. The autopsy revealed that Canley had suffered a gunshot wound to the upper chest, with the bullet fracturing the anterolateral first rib, passing through the thoracic cavity and grazing the upper lobe of his right lung before exiting through the third rib and lodging in his right upper back. The bullet's direction of travel was front-to-back, very

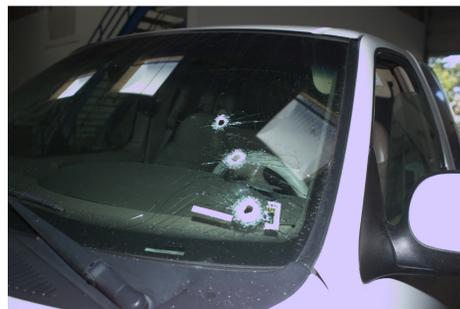
slightly upward and very slightly right to left. There were two adjacent wounds on Canley's left hand which were likely produced by the same bullet. There is a superficial linear laceration on the middle of the left index finger and tip of the left thumb. The bullet's direction of travel would be consistent with Matthews standing in front of the left front tire of Canley's vehicle when he shot at him.

At the time of Canley's death, he had a .02 percent blood alcohol level from bodily fluids taken at the hospital. A toxicological analysis of his blood revealed the presence of methamphetamine and amphetamine.

Criminalist James Roberts from the Ventura County Crime Lab examined Canley's vehicle. He found a total of seven bullet holes in the truck. Five bullet holes were in the front of the truck and two older holes were found in the tailgate. Two bullets from the cab area of the truck, two bullet fragments from the tailgate area of the truck, and the bullet from Canley's body were recovered for analysis. There is a bullet hole in the front grille of the truck that goes through the air conditioner coils and into the radiator. That bullet exited the vehicle and was not recovered. There is a bullet lodged in the front bumper of the truck. It was collected for analysis



Bullet lodged in front bumper



Three bullet holes in front windshield

There are three bullet holes in the driver's side of the windshield. The bullet which entered lowest of the three in the windshield hit the dashboard. No bullet or fragment was recovered. The bullet entering the middle hole inflicted no further damage to the truck and is the one that hit Canley in the upper chest. The third bullet hole in the windshield is the highest. That bullet traveled directly from the front of the vehicle into the rear seat of the truck. That bullet was collected for analysis. In the tailgate there are two holes. One is on the driver's side. This bullet exited the tailgate and no bullet or fragments were recovered. There is a bullet hole on the passenger side of the tailgate. That bullet did not exit and the jacket and fragments were collected for analysis. The bullet holes in the tailgate are oblong in shape and the directionality of those shots are from the passenger side. Those holes appear to have been in the tailgate some time before the shooting on November 14.

Criminalist James Roberts examined the recovered bullets and bullet fragments and compared them to the firearm used by Senior Deputy Matthews and with the firearm found on Canley. He found that the bullet recovered from Canley's body, as well as the bullet recovered from the front bumper of the truck and the bullet recovered from the rear seat of Canley's vehicle, were fired from Senior Deputy Matthews department issued firearm. The bullet fragments recovered from the tailgate were not fired from either Matthew's weapon or Canley's weapon.

Roberts also compared two spent cartridges found at the scene of a shooting on November 1, 2006, in the San Fernando Valley. Two vehicles were hit by gunfire and a white pickup truck was seen fleeing the area by a witness. Based upon microscopic comparison, Roberts found that one of the casings found at that crime scene was fired from Canley's gun.

The grips, live cartridges and magazine from the handgun found on Adrian Canley were swabbed for DNA analysis by Forensic Scientist Cynthia Lazenby. The analysis shows that Adrian Canley's DNA is on the magazine found inside the firearm.

LEGAL PRINCIPLES

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.

The law of self-defense and the defense of others was codified in 1872 and has remained substantially unchanged since then. It is found in Penal Code sections 197 through 199. It requires that the user of deadly force honestly believes that he or someone else is in imminent and deadly peril, and that a reasonable person in the same circumstances would believe the same and would deem it necessary to use deadly force in order to protect against such peril.

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. Conner (1989) 490 U.S. 386; Martinez v. County of Los Angeles (1996) 47 Cal. App. 4th 334.

ANALYSIS

The primary question that must be answered is: Did Senior Deputy Shane Matthews reasonably believe that he was in imminent danger of great bodily injury or death from Adrian Canley at the time he fired his gun at Canley? If the officer had such a state of mind at the moment he shot Canley, his use of deadly force was justified under the law.

In the instant case, when Canley initially approached Matthews he was very agitated. He made statements that indicated he was concerned with the fact that Matthews was a police officer and he claimed that he would not be taken into custody alive. Matthews did not know who Canley was or why he was trying to instigate a confrontation with him. When Matthews focused his attention on Canley, he began to run away. At that point, Matthews thought Canley was probably under the influence of drugs because of his irrational and erratic behavior. He did not want Canley to get into a vehicle and drive away. As Canley was running away, Matthews saw him reaching into his waistband as if to get a weapon. At that point, Matthews drew his weapon because he was in fear that Canley would turn towards him exhibiting a weapon.

When Canley jumped into his truck, Matthews attempted to stop him by repeatedly yelling at him to “stop” and by banging on the driver’s side window. Canley responded by striking at Matthews hand while it was on the top of the window and putting the truck into reverse. When Canley accelerated his truck in reverse, Matthews was holding onto the door handle attempting to open the door. The speed of the acceleration, as evidenced by the skid marks in the parking stall, moved Matthew into a position in front of the truck.

Matthews still had his weapon drawn and he continued to order Canley to stop. Canley accelerated his truck towards Matthews indicating his intent to run Matthews over. Matthews reasonably believed that Canley was trying to kill him, and he shot at the vehicle two times to get Canley to stop. One shot hit the front bumper of Canley’s truck and the other shot hit the radiator, causing the vehicle to leak fluid. Matthews consistently ordered Canley to stop, but Canley persisted in his acceleration towards Matthews. Matthews was still in fear for his life as the truck continued to bear down on him, so he fired three more rounds directly at Canley. The first shot of this volley hit the dashboard area of the truck. The second shot hit Canley in the upper chest. The third shot entered the back seat of the vehicle. Canley was disabled by the shot to his chest and his car coasted to a stop against the north curb line of the parking lot.

Matthews immediately began to render aid as soon as he determined that Canley was no longer a physical threat to him. Matthews called for back up, and additional units and paramedics responded to the scene immediately. The paramedics found a loaded handgun in Canley’s possession as they took his clothes off of him.

Although Gabriel Cimber believed that Matthews was standing to the side of Canley's vehicle when he fired the second volley of shots, the physical evidence at the scene and the statements of Matthews indicate that Matthews was standing in front of the truck near the left front wheel. The spent casings are near a parked car and next to a raised planter. In addition, the bullet holes in Canley's windshield are directly in front of the driver's seat, not to the side.

The location of the spent casings at the scene corroborates Matthews' statements regarding where he was standing when Canley advanced towards him in his truck. Matthews was within a few feet of a parked car to his immediate left and the planter which acts as a barrier to the end of the parking lot. The law does not require a peace officer to retreat in the face of a threat of bodily harm, and Matthews had no reasonable area to retreat to even if he so desired. He was hemmed in on one side by the parked car and the planter and on the other side by Canley's advancing vehicle.

Canley was acting paranoid, was apparently under the influence of methamphetamine and was armed with a handgun at the time that he confronted Matthews. Matthews' instincts proved to be correct. Canley would have been a danger to the public if he had been allowed to drive out of the parking lot. Therefore, when Matthews attempted to stop Canley from leaving the parking lot he was acting appropriately in the course and scope of his duties.

Canley was given several chances to discontinue his attack upon Matthews. After the first volley of shots he surely saw Matthews and knew that he was standing directly in front of his truck. His

choice to continue advancing upon him after that first volley is direct evidence of his specific intent to kill Matthews by running over him with his truck. Under the circumstances, any reasonable person in Matthews' position would have rightfully believed that he was in imminent danger of death or great bodily injury.

CONCLUSION

It is the District Attorney's conclusion that Senior Deputy Matthews acted reasonably under the circumstances and his use of deadly force to protect himself was within the limits of the law. For that reason, the District Attorney concludes that the killing of Adrian Canley was a justifiable homicide.