



**COUNTY OF SISKIYOU  
OFFICE OF THE DISTRICT ATTORNEY**

J. KIRK ANDRUS, DISTRICT ATTORNEY

August 10, 2017

**District Attorney Kirk Andrus Releases Findings in  
Officer Involved Shooting from June 4, 2016**

For Immediate Release.

**Yreka.** On August 10, 2017 District Attorney Kirk Andrus released his official findings that had been delivered the day prior to CHP-Yreka Commander Captain Mark Loveless in which he informed the Captain of the decision that no criminal charges were warranted in the fatal shooting of Daniel Jonathan Shaham on June 4, 2016.

The letter is attached.



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J. KIRK ANDRUS, DISTRICT ATTORNEY

August 10, 2017

Captain Mark Loveless, Commander  
California Highway Patrol—Yreka Area  
Yreka, CA 96097

**RE: Fatal shooting of Daniel Jonathan Shaham on June 4, 2016; shots fired by  
Officer Paul Shadwell of the California Highway Patrol.**

Dear Captain Loveless,

I have reviewed the reports and other materials compiled by Sergeant Celeste Fowler of the Siskiyou County Sheriff's Office, who was assigned as case agent to investigate the fatal shooting of Daniel Jonathan Shaham on June 4, 2016. Her investigation was submitted to me on Thursday, July 28, 2017. This letter was authored after the entire investigation was compiled and submitted. I have reviewed and considered all of the evidence, though only a small portion is referred to herein.

***Factual Summary***

Reports indicate that Daniel Shaham, 31, of Sacramento, California, was seen on the Louie Road overpass, which crosses over Interstate 5 in central Siskiyou County, at approximately 10:00 a.m. on June 4, 2016. Mr. Shaham's behavior on the overpass was disturbing or unusual enough to warrant scrutiny by several civilian drivers on the interstate below.

One such driver noted that she had seen someone matching Mr. Shaham's description looking over the overpass down onto Interstate 5. She believed that he was going to jump and his behavior "scared" her. She did not report her observations at the time but called law enforcement later and estimated that she had seen this at around 10:15 a.m..

Another passing motorist reported seeing a man matching Mr. Shaham's description standing on the overpass above the northbound lanes, and also between the lanes, between 10:00 and 10:30 a.m.. He observed Shaham looking over the edge of the overcrossing. At first the driver thought that he was a tourist but noted that he was not looking at the mountains. This worried the driver and caused him to slow down. As he did so he saw Shaham pace around and look over the edge. The driver believed that Shaham was suicidal.

Another motorist took the Louie Road exit in order to do a freight exchange for his employer. This witness noticed Mr. Shaham, who looked at him 'like what are you doing here' as he drove past him. The witness decided to watch Shaham, whom he then observed to climb onto the

overcrossing rail above the interstate. The witness called 911 to report the behavior and then positioned himself to watch Shaham. The witness was determined to stop Shaham if he tried to jump from the overpass so as to spare the driver of a vehicle below from the trauma of being the instrumentality of a suicide. He watched Shaham climb up onto the rail at least 3 times. Ultimately, Shaham stood on the south side rail above the southbound lane and turned to look north. The witness felt that he was trying to time his jump to be struck by an oncoming truck.

Finally, a local tow truck driver was northbound on Interstate 5 when he received a call to assist by towing a vehicle. In order to attend to the call he used the Louie Road exit to turn around and head southbound. He saw Mr. Shaham on the overpass. Because of how Shaham was positioned on the "bridge," on the concrete curb and looking down over the bridge, he spoke to Shaham, saying 'partner, you got a problem, what's wrong with you.' He then told him not to hang over the edge or the CHP would put him in jail. When this was said Shaham was 'not a happy camper' and didn't respond at first. The driver then got out of his vehicle and Shaham walked off of the bridge and said he would leave. The driver described Shaham's behavior as "not acting very good . . . nervous, scared, and 'not well.'" The driver asked if Shaham needed help or a tow. Shaham responded that he was waiting for a car and when the right one came along he would know. The tow truck driver then headed to the CHP tow where he informed CHP Officer Paul Shadwell of a 'guy on the bridge acting stupid' and 'acting nuts.' The driver then heard a call about Shaham come over the radio.

At 9:56 am Officer Shadwell was on southbound Interstate 5 in the process of impounding a vehicle. The tow truck arrived, after which an elderly couple pulled onto the shoulder and informed him of a suspicious person above them on the southbound overpass. The tow truck driver confirmed this information. At 10:01 am Officer Shadwell informed dispatch that he would not be able to respond immediately. The dispatcher replied that a motorist had reported the person standing on the rail over the interstate. Officer Shadwell decided that the Louie Road call was more serious than he originally thought. He responded to Louie Road.

When Officer Shadwell arrived on the Louie Road overcrossing, Shaham was standing between the white fog line and the rail, which is a legal place for pedestrians to stand. Shaham walked toward Officer Shadwell, who asked him if he was all right. Shaham responded that he was and was simply watching traffic. Officer Shadwell asked him if he was suicidal. Shaham responded that he was 'good.' This contact ended at 10:06 am.

Officer Shadwell backed his patrol vehicle away from Shaham's car and began to read the comments of the call on his Mobile Digital Computer. He noted that a reporting party had said that Shaham had been on the road side of the rail and on top of the rail. He decided to re-contact Shaham and ask him about his actions. Shaham was sitting in the driver's seat of his car, parked nearby. As Officer Shadwell positioned his patrol vehicle behind Shaham's vehicle he could see Shaham look at him several times in his rearview mirror. At approximately 10:12 am Officer Shadwell approached Shaham's vehicle on the passenger side and looked through the fully closed front passenger window.

As Officer Shadwell looked into the window he could see Shaham looking at him. He could also see a folding knife in Shaham's right hand. The blade, which Officer Shadwell estimated at 4-

5” was fully extended. As Officer Shadwell watched, Shaham, with his thumb on the blade, began opening and closing the blade with his thumb—but never completely closing it. Officer Shadwell told him several times to put away the knife. Instead Shaham got out of his car with the knife still in his hand. Officer Shadwell drew his duty pistol and retreated back toward his patrol car while giving continuous commands to “stop” and “drop the knife.”

Shaham did not obey the officer’s commands. Instead he deliberately closed the distance between himself and Officer Shadwell while still opening and closing the knife in his right hand. In doing so he was walking with side-steps that served to keep the front of his body oriented squarely toward Officer Shadwell. Shaham was moving toward the rear of his vehicle and toward Officer Shadwell—who continued to yell commands at Shaham. When Shaham had cleared the end of his own car there was no barrier between them. At this moment, approximately 13 seconds after exiting his own vehicle, Shaham was looking directly at Officer Shadwell with the knife in his right hand extended out in front of his body with his right arm at just over a 90 degree angle. Approximately 12 feet separated Officer Shadwell and Mr. Shaham. At approximately 10:13 am Officer Shadwell discharged his firearm 4 times. The first 2 shots hit Shaham in the chest. The next 2 shots struck Shaham’s right thigh and left lower back. Officer Shadwell then hit the “record” button on his Mobile Vehicle Audio Recording System (MVARs).<sup>1</sup>

### *Applicable Law*

This review is to set forth the established facts and to analyze those facts against the applicable law to determine whether Officer Shadwell will face charges in the shooting incident. The review does not examine such issues as compliance with the policies and procedures of the California Highway Patrol, ways to improve training, or issues related to civil liability. Nothing contained herein should be interpreted as expressing an opinion on these matters.

Under California law peace officers may use deadly force to protect themselves from the threat of death or great bodily injury. Penal Code § 835a provides that an officer may use reasonable force to make an arrest and to overcome resistance by a person for whom he had reasonable cause to believe had committed a public offense. That section states that an officer need not retreat or desist in the effort to effect an arrest because of that person’s resistance. Penal Code § 196 states that homicide is justifiable when committed by public officers, “when necessarily committed in overcoming actual resistance . . . in the discharge of any . . . legal duty.” Furthermore, homicide by public officers is justified “when necessarily committed in retaking felons who . . . have escaped, or when necessarily committed in arresting persons charged with felony, and who are fleeing from justice or resisting such arrest.”

In accordance with Penal Code § 196, peace officers may use deadly force in the course of their duties under circumstances not available to members of the general public. There are, however, limits on the use of deadly force by peace officers.

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<sup>1</sup> By pushing this button Officer Shadwell caused the MVARs system to begin to record and, more importantly, to capture the video of the 60 seconds that had just passed. Due to the officer’s prompt action the MVARs recorded important video evidence of the last 24 seconds before Officer Shadwell discharged his firearm.

“Police may use only such force as is objectively reasonable under the circumstances. An officer’s use of deadly force is reasonable only if ‘the officer has probable cause to believe that the suspect poses a significant threat of death or serious injury to the officer or others.’ All determinations of unreasonable force ‘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.’” *Scott v. Henrich* (9th Cir., 1994) 39 F.3d 912.

Irrespective of these laws written with peace officers in mind, the law of self-defense is available to all persons, including peace officers. Homicide is justifiable in accordance with Penal Code §197 when defending oneself or another person from any attempt to inflict death or great bodily injury on any person. This requires that a person actually and reasonably believes that that they, or another person, are in imminent danger of great bodily injury or death. *People v. Williams* (1977) 75 Cal.App.3d 731. In protecting oneself or another, one may use all force which they believe reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the apparently imminent injury.

Furthermore, homicide is justifiable, and not unlawful, when committed by any person when resisting an attempt to commit a felony. Penal Code section 197(1). However, not all felonies would qualify to be resisted using homicidal force. The threatened felony must be a “forcible and atrocious crime.” These are defined as crimes that threaten, or are believed by the defender to threaten, life or great bodily injury, and instill a reasonable fear of the same. *People v. Ceballos* (1974) 12 Cal.3d 470.

The burden is on the prosecution to prove beyond a reasonable doubt that a homicide is unlawful. *People v. Banks* (1977) 67 Cal.App.3d 379.

### ***Conclusion***

The evidence in this investigation would not support a finding of an unlawful shooting which would be a crime under the California Penal Code as a homicide or assault committed by Officer Shadwell. At the time of the shooting Officer Shadwell was appropriately attempting to contact Shaham, who had been demonstrating unusual, unbalanced and likely suicidal behavior. When contacted by Officer Shadwell, Shaham had armed himself with a knife and was actively demonstrating that the blade was available to him for offensive use as he continually moved it from a mostly closed to an open position and back. During their contact Officer Shadwell retreated and Mr. Shaham advanced, while being warned repeatedly to stop, drop the knife, and not advance. Approximately 13 seconds after getting completely out of his car, Shaham had advanced himself into a position where he could have run toward Officer Shadwell and stabbed him within as little as one second. He also could have thrown the knife at Officer Shadwell with virtually no warning. These possibilities put Officer Shadwell in imminent harm of great bodily injury or death. Furthermore, Officer Shadwell had no opportunity for retreat without taking his eyes off of the armed stranger in extremely close proximity to him. According to his statement, Officer Shadwell knew that it would take “no time” for Shaham to get to him from that distance. He believed and was afraid that Shaham was going to try to kill him. He discharged his firearm to stop that threat.

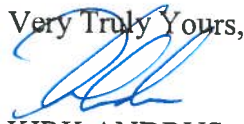
The evidence adduced during the investigation manifests that this behavior by Mr. Shaham was likely a purposeful act of suicide. The investigation revealed the following: Shaham had attempted suicide at least twice previously, June 4th was the anniversary of his father's death, he had a diagnosed mental illness of a potentially significant nature, and he was manifesting behavior on the overpass that led several drivers to suspect an imminent suicide attempt. With that prelude it is likely that Shaham chose, upon being re-contacted by Officer Shadwell, to put the officer in a position where the officer had no choice but to use deadly force in self-defense. When Officer Shadwell came to his window Shaham did not speak. He displayed the knife menacingly, got out of the car without being asked, continued to display the knife in a position ready for action, and advanced upon the officer—all while being repeatedly warned<sup>2</sup> to discontinue each of these behaviors. It is impossible to know how far Shaham would have gone to effect his suicidal ideation had he not been fired upon.

Furthermore, the evidence does not contradict a finding of an objectively reasonable application of the rules of self-defense. Shaham's extremely unbalanced and likely suicidal behavior aside, the deadly force used by Officer Shadwell is justified by Shaham's actions in the 24 seconds that precede the discharge of Officer Shadwell's firearm. Regardless of his intention, Shaham advanced on Officer Shadwell with a deadly weapon—leaving his own vehicle to do so—and achieved a position from which he could launch an imminent, deadly attack. The strong inference of Officer Shadwell's right to use deadly force in self-defense at that moment could not be effectively rebutted or overcome in criminal court.

Accordingly, Officer Shadwell is discharged and cleared from criminal liability in this matter.

This concludes the inquiry into whether Officer Shadwell will face criminal charges in Siskiyou County for this incident. I wish him well after his tragic involvement with Mr. Shaham. I also wish the loved ones of Mr. Shaham well and express condolences to all involved.

Very Truly Yours,



KIRK ANDRUS  
DISTRICT ATTORNEY

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<sup>2</sup> The MVARs recording contains no audio but, from the left side view, Officer Shadwell is clearly seen to give Shaham repeated, verbal commands up until the time that he discharges his duty weapon.