

**C. DAVID EYSTER**  
DISTRICT ATTORNEY

**PAUL D. SEQUEIRA**  
ASSISTANT DISTRICT ATTORNEY

**MIKE GENIELLA**  
PUBLIC INFORMATION

707-391-1019

geniellam@co.mendocino.ca.us



**COURTHOUSE**  
P.O. Box 1000  
Ukiah, CA 95482

**COAST OFFICE**  
700 S. Franklin St.  
Ft. Bragg, CA 95437

**OFFICE OF THE  
DISTRICT ATTORNEY  
COUNTY OF MENDOCINO**

December 10, 2014

**DISTRICT ATTORNEY DETERMINES USE OF LETHAL FORCE IN DEATH  
OF FLEEING MURDERER IS LEGALLY JUSTIFIED**

The Mendocino County District Attorney has completed a full review of the officer-involved fatality of **Ricardo Antonio "Rico" Chaney**, 32, formerly of Eugene and, at times, Portland, Oregon. Peace officer investigators working for the District Attorney and, ultimately, Mendocino County District Attorney David Eyster himself have carefully investigated Chaney's demise on March 19, 2014 in the general presence of at least one ranking officer of the Fort Bragg Police Department. Accordingly, District Attorney Eyster now publicly reports on his findings:

**Applicable Legal Standards**

As determined by the United States Supreme Court, the standard for review of any use of force employed during any law enforcement – civilian interaction is objective reasonableness. According to the Supreme Court, that reasonableness should be determined based upon a reasonable officer's assessment of four factors:

- (1) the nature of the crime at issue,
- (2) whether the suspect is an immediate threat to the safety of the officer or others,
- (3) whether the suspect is attempting to evade arrest through resistance or flight, and
- (4) the degree to which the situation is tense, uncertain and rapidly evolving. This last point acknowledges that officers must act with little time to analyze and consider circumstances, rather than with the luxury of 20-20 hindsight. (*Graham v. Connor*, 490 U.S. 386 (1989); *Tennessee v. Garner*, 471 U.S. 1 (1985).)

Based on the combined investigation efforts, reports, and search warrant affidavits of multiple police agencies<sup>1</sup> and the crime scene investigative work performed by the District Attorney's entire staff of

---

<sup>1</sup> In no particular order, the preparation of this report was undertaken after a thorough review of all reports and affidavits prepared relating to Chaney by the following law enforcement agencies: (1) the Mendocino County Sheriff's Office; (2) the Mendocino County Office of the Coroner (Jacqueline Benjamin, MD, Pathologist; (3) NMS Labs, (4) the Mendocino County

investigators<sup>2</sup>, it is the decision of the District Attorney that the lethal use of force attempted and applied against Ricardo Antonio Chaney was objectively reasonable given the totality of the information known to law enforcement and objectively reasonable given the circumstances and information personally observed by law enforcement who intercepted and attempted to arrest Chaney in Mendocino County.

### **General Background Investigation**

**Ricardo Antonio Chaney**, the son of Biby “Martha” (Fernandez) and Richard Chaney, was born September 9, 1981. Pablo (Paul) and Marina are siblings of Chaney. His father was a professor of anthropology at the University of Oregon, who retired without achieving tenure. The father passed in 1998 as a result of a heart attack. The mother later passed in May 2013 as a result of cancer. One of Chaney’s former friends going back to high school reported to police that Chaney had told him that Chaney had inherited a large sum of money from his mother’s estate, and had traveled extensively across the United States, especially the Midwest, for several months after receiving the inheritance, but eventually Chaney had “burned through the money.”

After the passing of her husband, the mother was eventually involved in a relationship with an Oregon criminal defense attorney in the years following her husband’s death. This attorney characterized Chaney as a troubled kid with a short temper. The attorney opined that Chaney suffered from undiagnosed bipolar disorder. Described as a fan of Bruce Lee and Sylvester Stallone’s “Rambo” character, Chaney was prone to “apocalyptic thinking,” and would engage in physical work outs in an obsessive-compulsive manner. During Chaney’s high school years, he had been kicked off the wrestling team for drug use. The attorney related to investigators that Chaney’s later attempts to join the Army or Navy were rejected by the armed forces due to a domestic violence arrest in 2006. The attorney further described Chaney as threatening and erratic. After the mother’s death in 2013, the attorney did not hear from Chaney until after Chaney’s arrest in early March 2014. In March 2014, Chaney asked for and was given financial assistance by the attorney to get a red Nissan truck released from impound.

In 2002 Chaney reported to his mother that his father’s best friend, George Bundy Wasson, also a University of Oregon anthropology professor, had molested him when he was young, though these allegations had never been reported to law enforcement or otherwise substantiated. A high school friend of Chaney also reported to police that he was told a little about this by Chaney, that this

---

District Attorney’s Office; (5) the California Highway Patrol; (6) the Bureau of Forensic Services of the California Department of Justice; (7) the Oregon State Police Forensic Laboratory; (8) the Eugene Police Department; (9) the Central Lane Communications Center; and (10) the Crime Victims’ Services Division of the Oregon Department of Justice.

<sup>2</sup> The District Attorney investigators who responded to this incident pursuant to the county-wide officer-involved shooting investigation protocol were: Chief DA Investigator Kevin Bailey, Assistant Chief Investigator Andrew Alvarado, Investigators Butch Gupta, Mariano Guzman, and Bryan Arrington. On-scene legal assistance was also provided by Mendocino County Assistant District Attorney Paul D. Sequeira.

allegedly happened around the time of Chaney's father's death, and that Chaney may have been lured with pornographic pictures.

Chaney met an Oregon woman in 2003, married the woman in 2004, and a daughter resulted from that union in 2005. Together for approximately three years, the wife separated from Chaney in 2006 following the aforementioned domestic violence incident that resulted in Chaney going to jail.<sup>3</sup> The woman divorced Chaney. The ex-wife told District Attorney investigators that Chaney had only one job all the time she knew him and that he had quit that job after only two hours. The ex-wife said that Chaney's sole source of financial support was his mother, and the ex-wife didn't know how he was supporting himself after the mother's death. The ex-wife described Chaney as disrespectful and never kind towards her, and her life with Chaney was rife with domestic violence. She said he was a person who was angry with the world and struggled with depression. She characterized Chaney as believing that everyone was out to get him, that he held extreme anti-government views, and that he harbored, in her words, "a great dislike for law enforcement." The ex-wife said Chaney would alienate most people he came in contact with with his extreme political beliefs. He would often mention "getting back" at people who he perceived had treated him badly. Chaney had a long fascination with firearms, the ex-wife related. The ex-wife last saw Chaney on March 17, 2014, and described him as acting strange even by his standards at that time. After returning from a short period of visitation with their daughter, Chaney told the ex-wife that he would be leaving and would not be back in their life for ten or more years, or at least until the daughter could decide which parent she wanted to live with.

In 2011 Chaney posted to the internet an interest in driving to Texas to stalk and kill a radio talk show host. It is unclear whether any action was undertaken by Chaney's family or law enforcement in response to this threat.

Early Oregon police reports reviewed include a **September 2012** incident where Chaney accused his older brother of violating a restraining order. When questioned by police, the brother denied any interaction with Chaney, which was corroborated by relevant security camera footage. The brother reported that Chaney was having "schizophrenic issues" and had pointed a gun at him at some undisclosed earlier point in time.<sup>4</sup> That police report was closed for lack of evidence.

In **April 2013** Chaney called the police to report that he had been attacked at the mother's home by his older brother. When police arrived to investigate, the mother refused police access to her home and would not otherwise cooperate. When contacted by police, the older brother reported that Chaney, who had recently returned from living in Flagstaff, Arizona, had been staying the last few days with their mother. The older brother reported a long history of fights between the brothers. Most recently, while visiting his mother, the older brother recounted that he had been jumped unexpectedly by

---

<sup>3</sup> Chaney was charged in the Lane County Circuit Court with felony assault in the 4<sup>th</sup> degree (ORS 163.160), misdemeanor interfering with a peace officer (ORS 162.247), and misdemeanor interfering with making a crime report (ORS 165.572). All charges were eventually dismissed for undisclosed reasons.

<sup>4</sup> It should be noted that Chaney, in turn, also reported to the police that the brother had "serious mental issues."

Chaney and a physical fight ensued. Both men suffered physical injuries (cuts, scrapes, human bites, and lacerations). The Eugene police declined to arrest either party, characterizing the affair as mutual combat.<sup>5</sup>

Investigators identified a woman who had been described as Chaney's girlfriend of two years until a breakup in early 2014, a woman who allegedly produced and sold pornographic movies with Chaney under the business name of Zero Dark Films. Zero Dark Films was a limited liability company formed in December 2013, with Chaney as company's registered agent. The deceased mother's home address in Eugene was used as the company's business address. A friend of Chaney's reported that the Portland break up was emotionally upsetting to Chaney and had also left Chaney with little financial resources. This witness ultimately loaned Chaney his red Nissan pickup for Chaney to drive and, the friend suspected, to live in. This is the same pickup truck Chaney was driving on March 5, 2014 which was eventually impounded when he was arrested in Eugene for a concealed handgun and suspected stolen property. It is also the same pickup truck that was found near where the BMW 330i would later be carjacked on March 19, 2014.

On **March 5, 2014**, Eugene police had earlier recovered a stolen vehicle but not associated stolen electronics and other property. The victim later updated the police that she was able to track her stolen cell phone and had a possible intersection where the phone may be, along with screen shots of the phone's location. On arrival at that location, the police found a locked red Nissan pickup truck. Inside the truck were several bags of property. An Interstate car battery was seen on the inside floorboard similar to or the same as the Interstate battery reported stolen from the victim. When contacted, the truck's registered owner told police that Chaney had been borrowing the truck, but refused police permission to search the locked truck. The victim arrived at the truck's location to assist in the investigation, but couldn't ping her stolen phone at that point (due, it is believed, to a dead or dying battery). Those present couldn't see just by looking through the windows if the victim's stolen property was in the various bags inside the vehicle. Chaney was also located nearby and identified in the field by police. After the theft victim left the scene, police also drove away but watched from distance as Chaney got in the truck and drove the truck away, committing several moving violations in the course of doing so. Chaney was stopped, eventually cited for the moving violations, and the vehicle was impounded because Chaney couldn't show proof of insurance. As Chaney watched, the officer conducted a pre-impound inventory search which located a loaded and concealed Ruger .22 caliber handgun in the glove box. Chaney admitted he had been shooting the hand gun in the woods, had loaded the firearm, and had placed it out of sight in the glove box. Another loaded .45 caliber HK hand gun was found concealed in a backpack in the bed of the truck. A loaded .223 caliber Seekins AR-15-style assault rifle with three loaded high-capacity magazines (30 rounds each), along with camouflaged

---

<sup>5</sup> An additional review of Chaney's Oregon criminal history also reveals that Chaney was arrested and charged in the Lane County Circuit Court in **October 2002** with misdemeanor assault in the 4<sup>th</sup> degree (ORS 163.160), and misdemeanor criminal trespass in the 2<sup>nd</sup> degree (ORS 164.245). Chaney was ultimately convicted of disorderly conduct (ORS 166.025) and sentenced to 12 months probation, 10 days county jail, and a fine. In **February 2000** Chaney was arrested and charged in the Lane County Circuit Court with escape in the 3<sup>rd</sup> degree (ORS 162.145), interfering with a peace officer (ORS 162.247), criminal mischief in the 2<sup>nd</sup> degree (ORS 164.354), and theft in the 3<sup>rd</sup> degree (164.043). Chaney was ultimately convicted of misdemeanor escape in the 3<sup>rd</sup> degree and sentenced to 24 months probation, 20 days county jail, and a fine.

body armor<sup>6</sup>, was found in a large duffel bag. Chaney advised the police he had all the guns loaded because he “goes to the woods.” He claimed to have purchased the body armor on eBay, but couldn’t provide a reason for having it. Dispatch advised the on-scene officers that Chaney had applied for a concealed weapons permit but his application had been denied. Further search of the duffel bag revealed fourteen tablets of MDMA.<sup>7</sup> While Chaney claimed as his a microphone in the small pouch where the MDMA was also found, he denied any knowledge of the MDMA. Numerous high-dollar electronic items were also found in the bed of the truck, including an iPad mini, Mac Book Pro, two iPods, and a device to translate Chinese or Korean to English. These items were discovered in a duffel bag also containing numerous female items, including jewelry and makeup.<sup>8</sup> Chaney was arrested and lodged at the Lane County jail for felonious possession of drugs (ORS 475.874) and misdemeanor unlawful possession of a firearm (ORS 166.250). Formal charges were never brought by the Lane County District Attorney’s Office and Chaney was eventually released.<sup>9</sup>

---

<sup>6</sup> Known by different names, a bulletproof vest, ballistic vest, bullet-resistant vest, or body armor is an item of personal armor that helps absorb the impact from firearm-fired projectiles and shrapnel from explosions, and is worn on the torso. Soft vests are made from many layers of woven or laminated fibers and can be capable of protecting the wearer from small-caliber handgun and shotgun projectiles, and small fragments from explosives such as hand grenades. In Oregon and California, anyone can purchase and use a bulletproof vest, unless he or she has been convicted of a felony.

<sup>7</sup> MDMA (3,4-methylenedioxy-methamphetamine), popularly known as ecstasy or, more recently, as Molly, is a synthetic, psychoactive drug that has similarities to both the stimulant amphetamine and the hallucinogen mescaline. It produces feelings of increased energy, euphoria, emotional warmth and empathy toward others, and distortions in sensory and time perception. MDMA acts by increasing the activity of three neurotransmitters - serotonin, dopamine, and norepinephrine. The emotional and pro-social effects of MDMA are likely caused directly or indirectly by the release of large amounts of serotonin, which influences mood (as well as other functions such as appetite and sleep). The surge of serotonin caused by taking MDMA depletes the brain of this important chemical, however, causing negative after effects - including confusion, depression, sleep problems, drug craving, and anxiety — that may occur soon after taking the drug or during the days or even weeks thereafter. Some heavy MDMA users experience long-lasting confusion, depression, sleep abnormalities, and problems with attention and memory, although it is possible that some of these effects may be due to the use of other drugs in combination with MDMA (especially marijuana). As an aside, possession of MDMA, formerly a “wobbler” in California (meaning possession could be criminally charged as either a felony or misdemeanor at the discretion of a local District Attorney), is now a mandatory misdemeanor, with limited exceptions, following the passage of the “Safe Neighborhoods and Schools Act (Proposition 47)” during the November 2014 general election.

<sup>8</sup> It is not noted in the reports whether the theft victim was asked to return and identify whether the electronics and female items recovered from the Nissan truck were some or all of the items that had been stolen from her. It seems reasonable that a positive identification from that victim might have justified an additional charge of theft by receiving in the first degree, possibly a class C felony (ORS 164.055/164.095), assuming the value of the victim’s recovered stolen property was equal to or exceeded \$1,000. Identification of this property may have also been circumstantial evidence of the identity of the individual who stole the victim’s vehicle. The unauthorized use of a vehicle may also be a class C felony under Oregon law (ORS 164.135), and this violation of law is often proven by direct or circumstantial evidence, or a combination of both.

<sup>9</sup> In explaining why Chaney was released from custody without charges being filed, Lane County District Attorney Alex R. Gardner wrote on March 30, 2014 that without proof on or about March 6, 2014 that the AR-15 rifle was illegally modified, he had no choice but to weigh the offenses that the police booked Chaney for at the time of his arrest -- the concealed handgun misdemeanor and felony possession of illegal drugs -- against other cases to which he attributed a higher priority. DA Gardner described this decision process as a type of legal “triage,” necessitated by a shortage of jail space, a lack of DA investigators, and inadequate staffing of prosecuting attorneys. DA Gardner explained such decisions were necessitated by

According to Portland State University records, Chaney first registered as a student at PSU during the winter 2010 term. He continued in that status through the winter 2013 term, which ended on **March 16, 2014**. Chaney had declared as a computer science major, but there are no attendance records as to when he last attended any undergraduate course at the university.

On **March 18, 2014**, the same friend who had loaned Chaney the red Nissan truck was visited by Chaney in the late afternoon. While the friend characterized Chaney as “okay” and “normal,” the friend later told police that he had a feeling that Chaney was going to do something stupid, believing that Chaney was going to hurt himself. The deceased mother’s former partner, the attorney, also received a visit from Chaney that afternoon. The attorney characterized Chaney that day as unusually intense, seeking gas money, which he was given. Chaney was agitated with his sister over issues involving the distribution of the mother’s estate. The attorney mentioned that he later received an email from Chaney asking that the attorney draft a trust that would have Chaney’s share of his mother’s estate go to his daughter and former girlfriend in Portland in the event that something should happen to him. A couple of hours later, the truck-loaning friend received an email from Chaney that the friend characterized to investigators as a farewell letter, an email that included instructions for the disposition of property identified in the letter. The email which also characterized the friend as Chaney’s “only friend” concluded, “I am not coming over or saying anything else because I don’t want you to be involved. Just be cool and everything will be okay. It’s god’s will and everything is going the way it should be.”

### **A Violent Crime Spree Commences**

Just after midnight on **March 19, 2014**, the City of Eugene Fire Department was dispatched to a house fire<sup>10</sup> on Elk Avenue in a neighborhood of Eugene. This home was approximately one-third mile from Chaney’s parents’ house on Floral Hill Drive. The firemen who initially made entry into the house described a smoky interior, lights on, with what one fireman called loud “weird and operatic” music playing. Finding a deceased male in the home, fire personnel called for police assistance. Able to gain access to the ground floor away from the fire through a partially open rear door off the rear deck, police confirmed finding a dead male inside the house, later identified as George Bundy Wasson, age 78, leaning back in a dining room chair over a pool of blood. His right ring finger was laying two to three feet away near the rear door with what appeared to be a circular gunshot defect in it. Gunshot wounds to the victim’s face close to the right temple and behind his right ear were observed. At least

---

a severely under-funded criminal justice system with no sales tax funding and slashed property tax revenues, resulting in the local criminal justice system in Eugene operating in, using his words, a “state of collapse.”

<sup>10</sup> Oregon arson investigators concluded that the source of ignition of the fire was likely an open-flame item, such as a cigarette lighter, that would have been carried away from the scene by the perpetrator after the fire was started. “Based on the available evidence, we concluded that the likely cause of the fire was the pouring of what appeared to be a gasoline/oil fuel along the base of the house between the car port and over to the front door. [T]he damage patterns suggested two distinct starting points, one at the corner of the car port at the edge of the wood pile, the other closer to the front door. This would be an intentionally set fire using an ignitable liquid that was probably on scene -- the gas can most likely containing a fuel oil mixture for use in the victim’s chainsaw.”

three firearm-related holes were seen in a bookcase behind the victim. Police believed that Wasson had been shot in the head with a firearm.<sup>11</sup> Neighbors reported hearing two gunshots around midnight and one neighbor heard a vehicle leaving the scene. Neighbors also reported hearing an explosion and seeing a fire spreading throughout the home. A burned 12 gauge shotgun shell casing and other evidence was seized within the fire scene. The fire involved the front of the residence and the upper floor.

Relatively close in time to the Elk Avenue fire, the City of Eugene police were also dispatched -- about quarter past one the morning of **March 19, 2014** -- to an armed robbery and carjacking that had just occurred about four miles north of the Wasson murder and arson scene. Two University of Oregon students had been confronted in a parking lot by an assailant with a sawed-off shotgun<sup>12</sup>, their car keys seized, and the two forced into the trunk of their 2006 BMW model 330i sedan. As the robber was driving the BMW out of the parking lot, the two students activated the internal release and exited the trunk. The victims described their assailant as having arrived at the parking lot in a red Nissan pickup truck, which police located and identified at the scene of the carjacking. This truck was the same truck that had been impounded when Chaney was arrested on March 5, 2014.

At 1:33 a.m. and 1:46 a.m., **March 19, 2014**, the Central Lane County (Oregon) dispatch center reportedly sent out a BOLO ("be on the lookout") to Willamette Valley law enforcement agencies regarding the armed robbery and carjacking. At 6:06 a.m., the Central Lane County dispatch center issued a teletype to law enforcement agencies in the entire state of Oregon, and reportedly to law enforcement agencies in Washington and California, with information relating to the armed robbery and carjacking of the BMW sedan in Eugene.<sup>13</sup> Mendocino County's Sheriff's Dispatch Center received

---

<sup>11</sup> Wadding, a disc of material used to separate powder from shot fired from a shotgun, was found in one of the wound tracks during Wasson's autopsy, leading investigators to conclude that Wasson had been killed by Chaney using the Boito model BR2, 12 gauge side-by-side top-break, sawed-off shotgun that was later recovered from the stolen BMW in Fort Bragg.

<sup>12</sup> A 12 gauge double barrel shotgun was found on the front passenger floorboard of the BMW when that vehicle was searched by the District Attorney's investigators on March 20, 2014 at 4:45 in the morning. The shotgun's barrel had been sawed off, and the modification of the barrel length appeared recent as there was no rusting of the bare metal at the cut. The shotgun had an ammunition carrier on the stock with one live shotgun shell in that carrier. According to Eugene Police Department investigators, this live shotgun shell was consistent by type and color to burned shotgun shell casings found at the Wasson murder and arson scene in Eugene. The shotgun recovered in Fort Bragg was also loaded with two live 12 gauge shotgun shells that were also consistent with shell casings found at the Wasson murder and arson scene in Eugene. Articles belonging to the carjacking victims in Eugene were also located in the trunk of the BMW. The Oregon State Police Crime Laboratory later determined that the shotgun recovered on the floorboard of the BMW in Mendocino County had fired the shotgun shell casings recovered at the Wasson murder and arson scene.

<sup>13</sup> That teletype sent to law enforcement agencies in Washington, Oregon, and California stated as follows: "Officer safety information regarding an armed robbery/attempted kidnapping. Involved vehicle: California Plate [number omitted herein], 2006 BMW 330i, black in color. Suspect described as a white male in his 30s, 5 ft, 9, last seen wearing a light green jacket, green scarf and long pants. On Wednesday, March 19 at approximately 0110 hours at 3225 Kinsrow Ave in Eugene, the suspect approached the two occupants of the vehicle and forced them into the trunk of the car at gunpoint. They were able to escape the trunk before the suspect drove the vehicle away. Suspect and vehicle are still outstanding. Eugene Police is [sic] exploring a possible connect between this armed robbery/attempted kidnapping and a homicide that occurred the

the Oregon teletype after it was sent on the morning of the 19<sup>th</sup>. Such advisories are regularly received and immediately reviewed by a dispatch supervisor for local applicability. Since there was no indication that the suspect was heading south into California, let alone had left the Interstate 5 corridor, or had likely diverted southwest through Del Norte and Humboldt counties, the advisory was not believed to have immediate local urgency requiring special briefing or broadcast to patrolling units in Mendocino County. In particular, the circumstances of the crimes in Eugene were not included in the morning briefing of patrol deputies prior to their going out on day shift patrol.

On **March 19, 2014** at approximately 10:30 in the morning the Mendocino County Sheriff's Office had a 9-1-1 call transferred to it by the Humboldt Communications Center of the California Highway Patrol.<sup>14</sup> The Mendocino County Sheriff's Dispatch center was told that man had just discharged a double barrel shotgun at the proprietor of the Confusion Hill store in northern Mendocino County.<sup>15</sup> The nearest deputy was at the offices of the Leggett Valley Unified School District, 6 ½ miles to the south of Confusion Hill at the north end of Leggett, when he was notified of what had just happened at Confusion Hill. As that deputy responded north on Highway 101, initially watching for an involved Mazda sedan<sup>16</sup>, he saw a black 4-door BMW sedan driving south but the driver was not wearing a hooded sweatshirt as dispatch was describing. A second 2-door BMW, this one gray, was then seen driving southbound with a driver who better fit the description of the shooter at Confusion Hill. However, neither driver seemed in a hurry or appeared concerned at the sight of the Sheriff's vehicle. It was decided the deputy would go directly to Confusion Hill instead of turning on one or both of the vehicles seen driving south. Upon arrival at Confusion Hill, the deputy first obtained officer safety information first from the Confusion Hill victim to pass along through dispatch to other law enforcement officers who would eventually engage the suspect. The deputy then obtained a more in-depth statement from the victim.

The deputy was informed that the proprietor of Confusion Hill had come upon a man urinating on the Confusion Hill property near a room for employees only. The urinating man was confronted and told to leave. That man was later identified as Chaney. As Chaney was leaving, he was mumbling something that the Confusion Hill victim could not really hear or understand. As Chaney further began speaking softly, the proprietor verbally confronted him again to leave. The proprietor then watched as Chaney

---

same day in Eugene. Any law enforcement agency with information related to these cases, please contact Detective Herbert with the Eugene Police at [telephone number omitted herein] or EPD Dispatch 24/7 at [telephone number omitted herein]. Central Lane Communications." This teletype was received by the Sheriff's Office dispatch center at or about the time it was sent by Lane County.

<sup>14</sup> Due to hardware failure, the original 9-1-1 call from Confusion Hill received by the Humboldt Communications Center was lost.

<sup>15</sup> Evidence eventually found in the BMW indicated Chaney had stopped at the McDonald's in Eureka at 8:58 a.m. earlier that morning.

<sup>16</sup> There was admittedly some initial confusion regarding the type of car that had fled Confusion Hill. An uninvolved employee who had seen the vehicle fleeing Confusion Hill reported that she was sure the vehicle was a Mazda, not a BMW as the assault victim would report.



walked to a black sedan with dark-tinted windows, entered the vehicle, and drove west towards Highway 101. As the proprietor watched from the store, the sedan stopped and then returned east back to the store. Chaney was now wearing a black hooded sweatshirt with the hood up over his head, and he was seen reaching over to the passenger side of the car. As Chaney exited the car, he had something in his hand as he walked towards the store. Concerned, the proprietor armed himself with an expandable baton and hid just inside the front door. As Chaney opened the front door to enter, the proprietor hit him with the baton. Upon striking Chaney, a double barrel shotgun being held by Chaney discharged a round. The victim fled into the kitchen for cover, as Chaney fired a second round at him without saying a word. Missing, Chaney then ran back to his vehicle. The victim suffered small cuts from flying glass and lead from the second shotgun blast. As Chaney fled, the victim rushed to obtain a hand gun, exited the store, and fired on the vehicle as it drove west again towards Highway 101. The on-scene deputy continued to issue updated information as quickly as the story was unfolding. As the deputy was concluding his initial investigation at Confusion Hill, he heard over his radio that a Sheriff's unit was now in pursuit of a possible suspect vehicle on Highway 1.

Listening to radio traffic and concluding that the Confusion Hill suspect may attempt to hide by driving south on the less populated coastal highway, Mendocino County Sheriff's Lieutenant Greg Stefani and Mendocino County Sheriff's Deputy Ricky Del Fiorentino both drove north on Highway 1 with Del Fiorentino in the lead several miles ahead of Stefani.<sup>17</sup> Del Fiorentino eventually radioed Stefani that, while driving north, he had just passed a car heading south that may fit the description of the wanted vehicle from Confusion Hill. Stefani pulled over on the west side of Highway 1 to await the approach of the suspect vehicle, which he observed in short order approaching from the north. As Stefani pulled in behind the vehicle – a black BMW with tinted windows, as described by the Confusion Hill victim – the car accelerated and made dangerous passing movements as it overtook other vehicles driving south. Stefani reached speeds of almost 100 miles per hour but the driver nevertheless extended his lead and Stefani lost sight of the car. Anticipating that the BMW would have to transit Fort Bragg, Stefani radioed ahead for assistance. The Fort Bragg Police Department dispatched an officer to the north city limits to wait to deploy a spike strip across Highway 1 when the driver reached that location. Last seeing the BMW at mile post 68, Stefani kept driving until he came upon a waiting California Highway Patrol unit in the neighborhood of mile marker 63.37. Believing the BMW's driver had pulled off to hide somewhere between mile markers 68 and 64, Highway Patrol units drove to mile marker 68 to block the northern escape route. Hearing that Del Fiorentino believed the BMW may have driven west on Ward Avenue, Stefani returned north and drove west on Ward Avenue. Fort Bragg Police Chief Scott Mayberry and Fort Bragg Police Lieutenant John Naulty – traveling in separate vehicles -- radioed their dispatch they would be also checking this area. Del Fiorentino radioed that he was at the beach area and the BMW was nowhere to be seen. Mayberry radioed and asked that the State Parks rangers be immediately notified of the situation, as there is state park land in that general area. Watching for Del Fiorentino, Stefani could not locate him, but heard him radio something that sounded like "go right here." When dispatch also later attempted to locate Del Fiorentino's location, he did not reply. While searching the area, Stefani saw Naulty's vehicle driving ahead of him. Naulty drove west on Park Drive, while Stefani turned south onto Pine Street. As he drove on Pine Street, a man flagged down Stefani

---

<sup>17</sup> After identifying the rank and employing agency of pertinent involved Mendocino County law enforcement witnesses herein, the use of surnames are generally used thereafter. No disrespect is intended by this writing style.

and said he could hear gun shots being fired to the west. Stefani immediately responded to that area and came upon Naulty in a fire fight. As Stefani recalls, Del Fiorentino's vehicle was stopped a short distance in front of a BMW and Naulty's unmarked Dodge Magnum station wagon was stopped behind Del Fiorentino's vehicle. Naulty was at the driver's side rear of his vehicle firing a rifle into a brushy area on the east side of the roadway. Stefani exited his vehicle and worked his way north. As he passed the BMW, he saw a Glock pistol with a mounted light, and a Glock ammo magazine on the ground near the open driver's door of the BMW. It was later discovered that Del Fiorentino's sidearm - a Glock pistol -- had been taken from his holster. It is theorized that the suspect, after killing Del Fiorentino, had planned on taking with him the deputy's sidearm, which it was later determined had not been fired. As Stefani moved to the open passenger door of the Sheriff's vehicle, he noticed the engine was still running. Del Fiorentino was in the driver's seat with bullet wounds in his shirt and he had suffered a head injury. Checking for a pulse, none was detected. Naulty continued his engagement with the suspect, and shouted to Stefani where he believed the suspect was in hiding armed with a rifle. After working back to where Mayberry's vehicle was stopped, Stefani returned to the Sheriff's vehicle to again check for a pulse, but, again, none was found. Highway Patrol officers started arriving and helped establish a perimeter.

Fort Bragg Police Lieutenant John Naulty, along with Fort Bragg Police Chief Scott Mayberry, deployed to provide mutual aid to the Sheriff's personnel in their effort to apprehend the Confusion Hill suspect and highly reckless driver. Following Del Fiorentino's radio report that a citizen had told him that a black vehicle had driven down Ward Avenue, Naulty went to help in the search of that area. As he drove into the area, Naulty believed Del Fiorentino vehicle was approximately 1/8 of a mile ahead of him as they both drove down Park Drive off of Ward Avenue. He could see Del Fiorentino's vehicle driving slowly and he believed the deputy was checking driveways. As Naulty was slowly driving and looking, he saw the Sheriff's patrol vehicle make a left turn on Park Avenue. In short order, Naulty heard what he believed to be six to eight gunshots coming from the same area where Del Fiorentino had turned. Driving directly to where Del Fiorentino had turned, Naulty first saw Del Fiorentino's stopped patrol vehicle from about a hundred yards, and, as he got closer, he saw the rear window of the patrol vehicle was blown out. A white male adult was standing at the open passenger side door of the Sheriff's vehicle looking inside. The driver's door of the deputy's vehicle was closed. Believing this man was unaware of his impending arrival, Naulty watched the man walk back around the patrol vehicle's passenger door to the front of a nearby black sedan. Naulty parked his unmarked vehicle five to ten feet behind the Sheriff's vehicle and left his engine running. He exited with his department-issued Colt model M-4 rifle, and cautiously approached between his vehicle and the rear of the Sheriff's vehicle. Since the man was dressed in jeans, wore a ballistic vest, and was carrying a black rifle, Naulty was unsure whether the man may be a yet-identified undercover peace officer who had arrived at the scene just prior in time to Naulty's arrival backing Del Fiorentino and hunting for the suspect. It looked to Naulty like this man had been "clearing the Sheriff's vehicle."<sup>18</sup> Naulty walked along the passenger side of the Sheriff's vehicle, used the cover of the open front passenger door,

---

<sup>18</sup> "Clearing a vehicle" is a law enforcement phrase that means looking inside a stopped vehicle to make sure there is no one inside who may pose a threat or needs medical assistance, and making sure there is nothing else therein that might pose a threat to responding peace officers.

looked inside, and saw Del Fiorentino slumped towards the passenger seat on the center console. From what he saw, Naulty believed the deputy had not survived an attack. Seeing that the unidentified man was now looking into the BMW as if he was also clearing that vehicle, Naulty stepped around the passenger door into the open and called out from about 25 feet, "What do you got?" With those words, the man spun around towards Naulty – who was dressed in his distinctive Fort Bragg Police Department uniform -- and opened fire at Naulty with a high-powered rifle, while also backing away from Naulty. Caught at a momentary disadvantage because the safety on his rifle was still engaged, Naulty made his rifle fire-ready and returned fire, while also backing away from the man to a cover position behind a tree. However, instead of fleeing from Naulty, the man ran parallel to Naulty and towards him, in what Naulty characterized as tactical movements to re-engage. Aware that he needed help, Naulty further retreated to the area near his car, while still trying to keep an eye on the attacker now hidden in brush. Shots continue to be exchanged between the man and Naulty, with one shot hitting the dirt just in front of Naulty, a miss that Naulty felt was too close for comfort. As this was happening, Mayberry arrived and provided cover with his vehicle and a means of retreat for Naulty, a fortuitous circumstance because Naulty had fired off almost all of his rifle rounds (two magazines) but was also left with his pistol.<sup>19</sup> First establishing a perimeter to prevent escape, law enforcement cautiously moved in on the suspect's location, where it was found that Chaney had expired.

It was later determined by forensic autopsy that Mendocino County Sheriff's Deputy Ricky Del Fiorentino had been shot multiple times.<sup>20</sup> His cause of death was fixed as multiple gunshot wounds. The patrol vehicle sustained sixteen bullet holes entering its front end, and nine bullet holes entering the driver's side front fender and door. More shots were likely fired at the deputy by Chaney that did not hit vehicle metal so as to leave evidence of points of entry.

Chaney was ultimately found dead in the brushy area where Naulty had been directing his fire. Chaney was dressed in blue jeans, was wearing a ballistic vest, and was wearing black gloves. There were two

---

<sup>19</sup> Cooperating with the District Attorney's investigators, Naulty's voluntarily provided a sample of his blood for later laboratory analysis. That testing of Naulty's blood by the Department of Justice determined his system was clear of alcohol and controlled substances at the time he was interacting with Chaney.

<sup>20</sup> The pathologist determined at autopsy that five intact bullets had struck Del Fiorentino. However, Del Fiorentino also sustained at least 149 additional superficial and deep impact injuries from fragments of bullets and inadvertent shrapnel caused by flying vehicle metal, glass, and plastic put in flight by having been struck by bullets and bullet fragments. A criminalist from the California Department of Justice was able to later identify bullet entrance holes in the following locations in Del Fiorentino's Dodge Durango: two in the grill, three in the hood, eight in the windshield, one in the left front quarter panel, seven in the driver's side front door, one in the driver's side-view mirror, and three in the light bar. The physical evidence would indicate that Chaney started firing on Del Fiorentino immediately upon the patrol vehicle stopping (the vehicle transmission had been placed by its driver in park), first from a head-on position and moving to Chaney's right, ultimately resulting in the multiple high velocity bullet holes that penetrated the driver's side door. At the Park Avenue crime scene investigators later located and the CHP's Multi-disciplinary Accident Response Team (MAIT) mapped one live .223 caliber round, twenty-seven .223 caliber casings and five 7.62 mm casings. See footnote 21 below. An AR-15 style magazine loaded with thirty live rounds that fit the Kel-Tec long range pistol was also found with the body.

assault weapons on slings on his body.<sup>21</sup> During the forensic autopsy it was concluded that Chaney had sustained massive trauma to his head, as well as a gunshot wound to his inner right thigh that caused a displaced fracture of his femur. It believed from all available information that the non-lethal displaced fracture of Chaney's femur was caused by a round fired by Naulty. The forensic pathologist concluded that the telltale characteristics of Chaney's head wound (powder burns around the entry wound) reasonably indicated that the kill shot to the head was self-inflicted. The cause of Chaney's death was fixed as a self-inflicted gunshot to the head.<sup>22</sup>

### **Applying Legal Standards to Facts**

In applying the criteria for assessing whether the use and attempted use of force is objectively reasonable given the facts of this particular case, the District Attorney makes the following factual and legal findings:

- (1) The nature of the crimes at issue (attempted murder with a firearm at Confusion Hill, reckless evading, and murder of a peace officer) are at least in part characterized in the Penal Code as violent and/or serious offenses;
- (2) It is objectively, as well as subjectively reasonable for Naulty to have believed that Chaney was an immediate threat to his safety and others; that Naulty needed to defend himself with lethal force in the course of providing mutual aid based on the following information known to him and other officers at the time:
  - (a) Chaney had attempted to shoot a shopkeeper at Confusion Hill with a shotgun;

---

<sup>21</sup> Found on sling on the suspect's body was an Arsenal model SA93 AK-47 (7.62x39 mm) rifle, an assault rifle manufactured in Bulgaria. The part number SA designates the rifle as semi-automatic and the 93 as the initial year of release. Also found on sling on the suspect's body was a Kel-Tec PLR-16 (.223/5.56x45 mm) long range rifle-action pistol, a firearm manufactured in Florida, which accepts large capacity AR-15 magazines. As configured, both firearms are prohibited firearms in California.

<sup>22</sup> The lab analysis of Chaney's blood and urine taken at autopsy by the forensic pathologist were clear of alcohol and drugs, save for detection of Delta-9 Carboxy THC, also referred to in literature as THC COOH, that was detected in the decedent's urine. THC COOH, or 11-nor-9-carboxy-delta-9-tetrahydrocannabinol, is the major non-psychoactive metabolite of delta-9-tetrahydrocannabinol (THC), THC being the psychoactive ingredient of marijuana. A finding of THC-COOH in urine reflects past use – not recent use -- of marijuana, and indicated past usage may have been several days prior to the recovery of the urine sample at autopsy. In chronic marijuana users, the elimination half-life of this metabolite could be as long as 40 hours; whereas, in infrequent users it averages 33 hours. How long marijuana is detected in the urine depends strongly on frequency of use. In regular users (more than once a week), the THC-COOH metabolite builds up to a high level, often on the order of hundreds of nanograms per milliliter (ng/ml), from which it may take weeks to decline back below the threshold of detection. The situation is different for occasional users (no more than once a week), who often clear up in a couple of days. The detected metabolite in this case was quantified at 71 ng/ml, with a threshold detection standard of 10 ng/ml. In other words, Chaney was not under the influence of alcohol or drugs at the time of the Confusion Hill attack and he was not under the influence of alcohol or drugs at the time he murdered the deputy.

- (b) Chaney had recklessly evaded pursuing law enforcement at high speeds on a coastal highway with driving that greatly endangered the public safety;
  - (c) Chaney deployed unanticipated and overwhelming lethal force against Del Fiorentino causing the deputy's demise;
  - (d) Naulty heard the gunfire that was determined to have caused the death of Del Fiorentino and he immediately responded to provide assistance;
  - (e) Naulty personally observed the bullet-riddled patrol vehicle and the death of the deputy caused by Chaney;
  - (f) Chaney attempted to shoot and kill Naulty at that scene;
  - (g) rather than attempt to escape, Chaney instead attempted to flank and re-engage Naulty with lethal force; and
  - (h) while the use of force employed by Naulty by its nature could be characterized as both defensive and offensive, I find by overwhelming evidence and beyond all doubt that Naulty was acting in self-defense when he returned fire on the murder suspect;<sup>23</sup>
- (3) There is no question that the suspect was attempting to evade arrest through both the application of direct lethal resistance that caused the death of a Sheriff's deputy, and, to a lesser degree, flight; and
- (4) According to all accounts recorded close in time to the shooting, the degree to which the situation was tense, uncertain and rapidly evolving was extreme. In reaching this conclusion, the guidance that officers regularly must act with little time to analyze and consider circumstances is given only some weight and consideration under the circumstances.

This matter is now formally closed by the District Attorney as a proper and justified use of deadly and potentially lethal force by involved law enforcement officers, specifically Fort Bragg Police Lieutenant John Naulty.

CDE:nc

---

<sup>23</sup> Arguendo, had Naulty also been aware of Chaney's culpability in the Wasson murder and related arson in Eugene the night prior, had he also been aware of the robbery, carjacking, and attempted kidnapping of the two college students also in Eugene earlier that morning, and had he also been aware of Chaney's interstate flight from all of those crimes in Oregon, such additional facts – again had they been known -- would further bolster, if that were possible, the overwhelming evidence that Naulty acted in an objectively reasonable manner to engage this dangerous individual with lethal force and prevent him from escaping to further jeopardize public safety in or about Mendocino County and beyond.